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RECORDS OF THE CAPE COLONY.



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RECORDS  
OF THE  
CAPE COLONY

*From SEPTEMBER to DECEMBER 1826.*

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BY  
GEORGE M<sup>C</sup>CALL THEAL, D.LIT., LL.D.,  
COLONIAL HISTORIOGRAPHER.

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# RECORDS OF THE CAPE COLONY.

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[Original.]

*Report of J. T. BIGGE, ESQ., to EARL BATHURST upon Courts of Justice.*

CAPE OF GOOD HOPE, 6th September, 1826.

MY LORD,—Before we proceed to detail the several alterations that we consider to be desirable in the Constitution and Proceedings of the Courts of Justice of the Colony we will endeavour as concisely as the nature of the subject will permit, to submit to Your Lordship, a statement of the existing Judicial System, and of the extent of Jurisdiction exercised by the Civil and Criminal Judicatures.

There are five Courts in the Colony, possessing distinct and separate Jurisdictions. The Court of Appeal, composed of the Governor, and Lieutenant Governor, and a Secretary and Registrar, assisted by two Assessors in Criminal, and recently by one in Civil Cases. The Court of Justice consisting of a President and seven Members, and possessing Civil and Criminal Jurisdiction. The Court of Vice Admiralty both of Prize and First Instance, a Court for the recovery of small Debts arising in Cape Town, and not exceeding 300 rixdollars (£22 10s. Sterling), and lastly a Court of Landdrost and Heemraden established in each District possessing the same extent of jurisdiction in Civil Causes as the last, and an original authority to try Criminal Cases of a certain Class, that was conferred by a Proclamation dated 18th July 1817. The Landdrosts and Heemraden of the Districts possess also a jurisdiction in Matrimonial Causes in legalizing the registration of Marriages.

The jurisdiction of the Court of Appeal is derived from a clause contained in the Commissions of the respective Governors. It was first established by a Proclamation of the Earl of Caledon dated the 29th May 1807, and seems to have been given in substitution of the right of appeal that had antecedently existed, from the decisions of the Colonial Courts to the High Court at Batavia, which was afterwards transferred in the period of the Batavian Government to a similar Tribunal called the " Asiatic Council " resident at the Hague. The right of appeal to the Governor in Civil Actions is given in all cases the Amount of which exceeds the Sum of £200 Sterling or 1,000 rixdollars, with a further right of appealing to His Majesty in Council in cases where the Sum or Value disputed exceeds £500 Sterling or 2,500 rixdollars. The Proceedings in this Court have at all times been conducted in the English Language, and at an early period, an attempt was made to assimilate them to the Cases in Appeal before the Committee of His Majesty's Privy Council. This course seems to have been recently much neglected. The Pleadings have been loaded with multiplied and expensive Copies of the same documents, and the length of the Memorials which are always signed by Advocates has been unnecessarily increased by diffuse and inaccurate quotations from the Commentators on Roman, Dutch and English Law ; and the expense of the Proceedings augmented by delays, contumacies, and frivolous excuses. No regular sittings have been recently held, but Memorials are filed in the Office of the Secretary and Registrar, and presented to the Governor when opportunities offer, and sometimes by the Parties themselves in personal interviews with him. Independent of the difficulty with which he must have approached the consideration of the questions that came before him in the Court of Appeal, it very rarely occurred that the grounds of the Sentence appealed from were explained or declared by the Court below in Civil Cases. Explanations were sometimes obtained by means of private Interviews with the President or with the Parties, and although the Governor was in the habit of discussing the points that arose in several cases, with the Secretary and Registrar of his own Court ; yet from the general disposition of this Officer to follow the principles of English decisions, with which both his reading and practice had made him familiar, and from the want of any



authorized professional Adviser in Civil Cases, we were not surprised to find that the principles of the first decision were frequently over-ruled ; and in those, where any circumstances or information had led us to make an inquiry, that they had been made to yield to authorities collected from the English Law Books ; and frequently to the impressions which the Governor himself had formed. In the lapse of 19 years, it appears from the Returns transmitted by the Secretary and Registrar of the Court, that out of 428 Sentences of the Court of Justice, against which Appeals have been entered, 131 have been affirmed, 21 amended, 83 reversed and that 76 are pending ; that 72 Appeals have been made from the Governor's Court to His Majesty in Council ; and that of these, 5 Sentences have been affirmed, 6 rejected, 3 reversed, and 32 were not prosecuted.

With reference to these circumstances, and to the heavy demands upon the Governor's attention occasioned by the increase in the number and complexity of the Cases in Appeal, the great delays that were experienced, and the unsatisfactory nature of the decisions, we had at an early period agreed upon the expediency, if not the necessity of either dispensing with, or of otherwise providing for the exercise of the Appellate Jurisdiction in the event of our not being able to suggest the means of supplying it by an improved constitution of the Court of Justice.

On the recapture of the Colony in the year 1806, it was found that this Court had been recently established by the personal authority of the Batavian Commissioner in the year 1803, when instead of the President and Members being selected as formerly from the Burgher Senate and from the Civil Servants of the Dutch East India Company, they were appointed in Holland by the Government with some reference to their professional qualifications. The President, and all the Members of the present Court hold Commissions from the several British Governors ; the tenor of that of the President being " for His Majesty's Pleasure ; " those of the other Members during the pleasure of the Governor. They are eight in number and with the exception of one of the Individuals most recently appointed are natives of Holland or of the Cape ; and if all of them have not enjoyed the advantages of professional Instruction and

experience, they have at least filled Situations in the Colony, more or less connected with the administration of justice.

The composition of the Court however has not been such as to attract a sufficient degree of respect or confidence in its proceedings ; and on the other hand, the same cause has tended to accumulate a degree of influence in the hands of the President that has been embarrassing to himself from the extent of personal intercourse in which it has involved him with the Suitors, and has insensibly and silently withdrawn from the observation of the Public, those steps of the judicial Process which it was the anxious wish of two British Governors, Lords Caledon and Howden, to effect. This system which has been described to us under the name of Domestic Administration, and which we believe to be by no means uncongenial to the feelings and habits of the Dutch and Native Inhabitants of the Colony, must always be open to a great degree of suspicion and misconstruction ; and in a place so remarkable as this Colony for the spread of local influences ; and the infinite extent and obligation of family connexions, it gradually leads the Suitors to consider the possession or recovery of their rights as dependent rather upon an equitable or friendly disposition in the Judge than as the necessary consequence of a just and uniform spirit in the dispensation of the Law.

Nothing we think has so much contributed to confirm this feeling as the incertitude in which Parties are left respecting the motives or reasons that have guided the Court in their conclusions ; it not being usual for them to declare any in their Sentences, and the process of the Court leaving few or no opportunities of entering into explanations during the Trial. The presence of five Members and the President is necessary in giving a definitive Sentence in a Civil Case, and that of Seven in giving Sentence of Death. The questions to which the Proceedings give rise are determined by a Majority of Votes, but the Sentences when promulgated are signed by all the Members of the Court including those who have dissented.

From the general description that has been afforded us of the nature of the Causes that have been brought before the Court of Justice, we have no reason to believe that they are complicated. From the simple modes that have prevailed of transferring Property, it is rare that any other questions occur



respecting it than those which arise from disputed Boundaries or the right to the use of Water. The Commercial Causes are those that give rise to the most protracted discussion, and are attended with the most important results. The Provisional Instructions of the Commissioner of the Batavian Government did not profess to regulate the proceedings of the Court of Justice, but enjoined it to frame a set of Rules that might apply both to Civil and Criminal Causes, after they should have received the approbation of the Batavian Government. This injunction does not appear to have been fulfilled previous to the surrender of the Colony to British Authority in 1806 ; and the Forms of Civil Process have remained in the same state in which they had existed between the first Capture in 1796 and the evacuation of the Colony in 1803. They do not appear to us to vary in any great degree from the Forms that have been adopted in the Tribunals of those Countries in which the Civil Law has been retained, but they have a direct tendency to produce procrastination in the early stages of the Process, and uncertainty and inaccuracy in the statement of the points at issue, while the system by which oral testimony is now procured affords frequent opportunities for the exercise of undue influence over the minds of Witnesses, it takes away from the Judges the means of fairly estimating the degree of credit that is due to them by a personal observation of their conduct and demeanor under cross examination. The mode of interrogation which is universally adopted in the Courts, strongly points to the kind of answer that is expected ; and in the practice of the Advocates and Notaries, these defects seem rather to be encouraged than checked. Four Defaults of appearance are allowed before a sentence can be obtained against a wilful Defaulter, and the great distance of some of the Districts from the Seat of the Court has tended to aggravate the evils of delay and expense to which this system gives rise. Great latitude of excuse for non-appearance or for not answering is allowed both to the Advocates and the Parties ; and a perpetual source of delay arises, which if not claimed by the Parties, is proposed by the Court, from referring the causes in their early stage to the cognizance of one of its commissioned Members, whose duty it is to hear the parties, and to try to adjust their differences by amicable mediation. As the Advocates of the Parties are not

always allowed to interfere on these occasions, the progress of the mediation depends much upon the activity and character of the commissioned Judges. In matters of Account or Partnership, such references are found very useful and in cases of Calumny and of domestic disputes. And upon the whole, the principle upon which they are introduced would have been beneficially felt, if in its application it had not been suffered to become a pretext for unwarrantable delays, and if it did not tend to prejudice the interest of Parties rejecting the proffered mediation. If the reference to the Judge Commissorial is not successful, the cause proceeds by Requisitions or Notices given by the Advocates of each Party, and dependent upon the wish or interest of the latter in delaying or expediting it. Petitions and answers, Replications and Rejoinders are filed and accompanied with Documentary Evidence or the declaration of Witnesses, that are taken down in the first instance before a Notary, under a pledge of future confirmation by solemn oath, and are afterwards revised in the same manner, but upon oath and in the presence of the Advocate of the opposite party, who is at liberty to cross examine. Copies of the Pleadings, and Documentary Evidence when filed, are generally required by the opposite party, and are made out in the Office of the Secretary and Registrar of the Court, at the expense of the party requiring them. If the cause is of importance the parties may apply for, or the President of the Court may order the Advocates to be heard at an extraordinary Sitting, but in common cases, the proceedings are sent round for the consideration of the Judges, and the President fixes a day for the deliberation which takes place with closed Doors, and the opinions of the Majority are embodied in a Sentence that is drawn up by the Secretary, and communicated to the Parties. This form or Process takes place in the trial of disputed claims, or of what may be termed unliquidated Damages. In Cases that are called "Liquid" and arising upon Bonds, Notes, or other Instruments, the preliminary process is shorter. Upon the exhibition of the original Document, the Defendant is summoned to appear and confess his signature, and to hear the Plaintiff's claim for payment of the Sum due. If on appearance the signature is acknowledged, and an allegation made that there is a defence to the Action, a provisional Order or Decree for immediate

payment of the Money is made, and the Plaintiff gives security to return it in case the Defendant should succeed in his Defence, or what is termed the "Principal Cause," a reservation of his right in that respect being generally made. The object of this practice, being to afford security, in Commercial transactions, and punctuality in the fulfilment of engagements, has been impaired by a recent order of the Court of Appeal, enjoining the Court of Justice to suspend all proceedings, even upon Provisional Orders of payment (such as have been described) until any Appeal that might be entered against them, should have been heard and determined. The effect of such an order has been fatal to the despatch necessary in enforcing the execution of Commercial and other engagements, and is equally opposed to long established practice and authority.

Respecting the Proceedings themselves, we may generally observe that the form of Process which is pursued in the Court of Justice, and the general character of its proceedings, are calculated only for a Community whose transactions are few, and simple, and in which the good faith of the parties has superseded the necessity of recourse to a rigorous execution of the Law. Two great and salutary improvements however were made in its proceedings during the administration of the Earl of Caledon and Lord Howden, by the institution of Circuits, and by rendering all proceedings public that had till then been conducted with closed Doors. Nothing has been wanting to complete the benefit of the former provision but a greater degree of professional knowledge, and the feeling of confidence that accompanies it, in the Individuals to whom the administration of Justice on the Circuits has been necessarily committed, together with a careful selection of persons qualified for conducting the preparatory parts of the process in the Country Districts. The measure was introduced under the Presidency of the late Chief Justice Ryneveld, who conducted the first circuit.

A near assimilation to the practice of the English Courts was laid down in the Rules by which the Proceedings of the Commissioners of Circuit were regulated. The forms of process, the ceremonials of the Court, and even the residence of the Judges (unfortunately not adhered to until last year, the Judges having allowed themselves to reside with the Landdrosts) were carefully

provided for, and due precautions were taken for insuring publicity to the approach of the Judges to the Circuit Towns, and a free access to them by the lowest Classes of the Inhabitants. The Regulations enjoined an inquiry by the Judge Commissioners that embraced nearly all the Branches of Provincial Administration ; an inspection of the Gaols, the Criminal Proceedings and Sentences passed by the District Courts ; and the execution of all Civil and Criminal Law Sentences. The entry and preparatory arrangement of the Civil Suits was committed to the District Clerk, who thus became the Depository of the confidential communications of both parties, the names of their Witnesses and the points that each were prepared to prove. It was also his duty to give a certain degree of Form to the different Actions, and to apprise each Party of the proofs necessary to sustain them. The latter part of his Instructions however has not been observed in the description of the Case, when it is brought before the Court. The declarations of the Witnesses are taken upon oath before the Judges, and committed to writing by their Clerk ; and the parties are permitted, or it may be more correctly said, are under the necessity of conducting their own Causes ; Advocates and professional Men having been prohibited from giving their assistance to either Party on the circuits of the Judges, although the want of their assistance is much felt in Civil, but especially in Criminal Cases.

From the want of professional instruction also in the District Clerks, and from the dilatory nature of the preliminary process, the benefits of the Circuit Court have been much impaired ; although some degree of relief has been afforded to the Inhabitants of the distant Districts, from the expense of bringing their Actions before the Court at Cape Town ; and occasional opportunities to the Court of Justice of making judicial inquiries on the spot, by means of their own Commissioned Members.

The Judges of Circuit are allowed to refer the consideration of difficult Cases to the Full Court, and an appeal is allowed against their decision to the High Court in Cases exceeding 1,000 Rixdollars.

From a Return that we have obtained of the number of Civil Causes tried by the Commissioners of Circuit from the establishment of the Court in the year 1811 to the 31st December



1825, we find that they have not exceeded 720 ; and that the number tried in the District of Albany in five years ending in December 1825, amounts to 145, and exceeds the total number tried in any one of the other Districts during a period of 15 years. Of these, taken collectively, we find that only 12 have been referred to the Full Court ; but we are rather disposed to think that the number is not correctly stated.

The number of Causes that have been tried in the Court of Justice between the year 1810 and the year 1825, does not exceed 6,985 ; the greatest number in any one year, amounting to 616. The number of Causes tried in each year from 1815 to 1825 inclusive, does not demonstrate any great increase of business ; and as far as can be learnt from the Return of the Registrar and Secretary of the Court the Amount of the Causes themselves has not been considerable.

The jurisdiction of the Court of Justice, as at present exercised, was defined in the 60th Article of the Provisional Instructions already referred to. Its competence to give judgment was declared in all Causes of Possession ; of Matrimony ; in Actions brought either by, or against Receivers of Public Revenue, or Public Boards ; in deciding questions of jurisdiction between the different Districts of the Colony ; in Causes of Prize or Booty captured in War by vessels of the Batavian Republic or sailing under Commission or letter of Marque, and finally in all actions between any Inhabitants of the Colony and Masters of Ships, Seamen and Passengers belonging to any Ships anchored in the Cape Roads or Bays without any exception whatever.

Every proper facility has been afforded to the Representatives of Creditors in England for the recovery of their claims, but those made on behalf of Alien Enemies were suspended by virtue of a letter addressed by the Colonial Secretary to the Insolvent Chamber dated 27th October 1813, in which an order of the Governor was given that in future no sentences against Inhabitants of the Colony at the suit of a foreign enemy or persons residing within the Territories dependent upon France should be carried into effect.

The comprehensive terms in which the Jurisdiction of the Court of Justice was described in the Instructions have been held to include that of the Courts of Vice Admiralty, both in

questions of Prize of War, and in those of Maritime Contract, Seamen's Wages and others, and also the violations of the general Laws of Trade and Navigation of Great Britain. We do not believe that the Court of Justice has ever entertained any question of Prize ; but a Commissioner of the Court has sat in judgment, and pronounced sentences of condemnation in cases of Breach of the East India Company's Charter, and of the general Regulations by which their privileges are secured.

It is hardly necessary for us to observe that such questions, and the interests they have involved, were of too great difficulty and magnitude to be so disposed of ; and ought, from motives of mere judicial discretion if not of respect to the Vice Admiralty Commission of His Majesty, to have been surrendered to the cognizance of the Judge who held it. Such an understanding now prevails upon the subject that might possibly have the effect of exclusively confining the consideration of Maritime questions, and the interpretation of English Acts of Parliament to the Courts in which such subjects are best understood ; but we hope that when we submit to Your Lordship the Outlines of a new Charter, ample provision may be made for the disposal of questions of Maritime Law, and yet of confining those that involve Breaches of Regulation for the protection of the Colonial Revenue, and Penalties not exceeding £10, to the cognizance of the Local Courts.

In addition to the subjects already mentioned as submitted to the jurisdiction of the Court of Justice by the provisional Instructions of 1803, it is permitted by Article 61, to Widows, Guardians of Minors, Curators of Idiots, &c., to appear as Plaintiffs and Defendants before them, even when impleaded before a Court of superior Jurisdiction ; but we do not observe that any original, or exclusive jurisdiction for the purpose of providing for the Estates of this Description of persons is conferred upon the Court of Justice by any of the Local Laws. The distinction between the jurisdiction of Courts of Law and Equity appears to form a part of the Law of Holland, but has not led to any corresponding separation of the Courts ; causes or actions "of extended Right," and actions of right narrowly considered being equally within the jurisdiction of the same Courts.

The Civil jurisdiction which the Landdrost and Heemraden

of the Districts now possess, was created by the Regulations of 1803. It extends to cases of pecuniary claim, wherein the amount in dispute does not exceed 300 Rixdollars ; to Cases of Boundary and Possession ; and the Proceedings, although not required (except under particular circumstances) to be conducted in writing, partake of the same dilatory character that is observable in those of the higher Court. The Sittings of the District Courts are held once a month and sometimes oftener ; the Suits are conducted by the Parties themselves or by their Agents, and if the efforts of the Court are unavailing in inducing them to terminate their dispute by compromise or by arbitration, a practice that is strictly enjoined by the Instructions, the declarations of Witnesses are taken upon oath and recorded, and the Court proceeds to judgment.

A Court for deciding Cases of similar amount, but confined to the Inhabitants of Cape Town, has been long established, and is found to afford considerable benefit to the Suitors. In consequence of the increase of Population in the Cape District the Civil Administration and Police that had until the year 1809 been exercised by the Fiscal were transferred to a Landdrost and eight Heemraden specially appointed to the District ; and by an arrangement for which the reason does not seem obvious, the Civil Jurisdiction abovementioned in Cape Town was added to that to which the new Landdrost and Heemraden succeeded in this District. Six of the Heemraden are nominated from Cape Town, and two from the District ; and the business that arises in the Court for Petty Debts which is held every Saturday, and frequently adjourned to a day in the week following, constitutes a principal part of their occupation. This Court has been directed to proceed according to the Rules of the Court of Justice, when as before observed, four distinct citations are necessary to entitle a Plaintiff to a judgment by default, even in cases that do not exceed 20 Rixdollars. Agents appear for the higher Classes of Suitors in this Court, and the Costs that are allowed for their attendance, together with the Stamps, and Fees paid to Government, have pressed hardly upon the poorer classes, and have impaired much of the advantage that the Public would have otherwise derived from the institution of the Court, as well as from a very creditable and upright administration of it

by the principal Magistrate of the Cape District. The Landdrosts and Heemraden have also been authorized to exercise a certain limited jurisdiction in Matrimonial Causes, by virtue of which, all persons, whether Foreigners or others, intending to enter into the state of Matrimony are required to appear before the Landdrost, who interrogates them as to their age, condition, and freedom from all pre-engagement.

Such we believe are the outlines of the constitution of the several Courts in which Civil Justice is administered in the Colony. They date their origin from a period in which the Batavian Government had come to a determination of introducing more enlightened principles of Jurisprudence, and a more independent spirit into the Seat of Justice, and to elevate the character of the Colony from that of degrading subservience to the interests of a Commercial Body, to that of near, but beneficial intercourse with the Mother Country. If that intercourse had continued, it is probable that some portion at least of the great improvements that have been effected in the Jurisprudence of the United Provinces of Holland, would have been communicated to this Colony, and that the Inhabitants would have had the benefit of a nearer acquaintance with some more intelligible system than that by which their transactions have continued to be regulated.

The Civil Codes by which the rights of Individuals in this Colony are protected, consist of those which are better known to the world by the general term of Roman Law, explained by the Commentaries and annotations of the Dutch Jurists, amongst the most celebrated of whom are here esteemed, Voet, Grotius, and in later times Van Leeuwen and Van der Linden. The Resolutions of the States of Holland called Placaats, and the Resolutions of the higher Tribunals, have been collected from time to time, and were published under the authority of the same Van der Linden in the year 1796. They consist of modifications of the Imperial Laws and recognise the existence of local customs, more especially those of the States of Holland, which have been gradually introduced into this Colony, but are by no means familiar to the Practitioners.

The Proclamations that have been issued by the authority of the Governors, and the Resolutions of the Government of Batavia, that have been transmitted to this Colony, and have



been duly promulgated under the name of Batavian Statutes, are likewise considered to have the force of Law. These last however relate to the treatment of Slaves, the regulation of internal intercourse, and the Police of the Town and Country. The Laws of Property and Succession are chiefly derived from the Civil Law and the customs of Holland. They are very simple in their structure, and not unsuited to the condition of a people devoted to agricultural pursuits; and whose views in life have hitherto rarely exceeded the attainment of decent maintenance for their families, and the establishment of their Sons in situations and conditions as nearly analagous as possible to their own.

In referring to the present condition of the Colony, and its Inhabitants, and comparing it with the most authentic Accounts that have been given of them in antecedent periods, we cannot recognize the expediency, or the policy of attempting to perpetuate by means of influential Institutions, those characters of indolence and indifference which have not unjustly been attributed to them. The natural tendency of the Population of the Country to increase, the measures now in progress for the gradual extinction of Slavery, (in which the best informed of the Colonists are not unwilling to co-operate) constitute strong motives if others were wanting to endeavour to infuse some portion of that spirit of active industry and intelligence by which the Individuals composing the same Classes of society in England are distinguished. Allowing for the great disadvantages under which the Inhabitants of this Colony have laboured, we cannot recognize any mental or physical inferiority in them to the class to which we allude, that should disqualify them for performing the same duties, and hereafter for discharging the same respectable functions. The great basis of improvement having been already laid by the encouragement that Your Lordship has afforded to the acquirement of the English Language, the next, and we had almost said, the most natural step for them to make is the adoption of the English Laws, or the earliest assimilation to them that can be made compatible with their present condition.

Although we wish to speak with respect of the high sources from whence the judicial system of Holland and her Colonies has been derived, and recognize in it many of those great prin-

ciples of jurisprudence which have so long contributed to regulate the transactions of other States, yet we cannot view without some apprehension the exercise of that large discretion which is placed in the hands of the Judge, and which excludes a recent, but we think a respectable and valuable portion of His Majesty's Subjects from the adoption of the great principle of English Law by which that discretion is circumscribed. Although we do not believe that the advantages of the one or the other system of Law, have entered much into the contemplation of the Colonists, and that even the subject itself may be unpopular with the older Inhabitants, yet we have not been insensible to those involuntary testimonies of respect that are paid by the Judges themselves, the Advocates, and the Agents, to the superiority of English Law and authority, by the frequent quotations which they are in the habit of making from the great Expounder of our System ; and even by the most minute references to Writers of much less authority and credit.

Upon Commercial questions the Dutch Law is singularly deficient, but the Judges are enjoined to follow the principles and practice of those States which are most distinguished by their Commercial enterprize and experience. In referring indeed to the more early Records of this Colony, (for which we are indebted to the industry and intelligence of a very worthy Member of the Court of Justice) we have found ample reason for believing that the successive Governments have partaken of the embarrassment felt and expressed by the People themselves, in having no distinct Code to which they could appeal for the regulation of their conduct. General Placaats or Compilations of the Dutch and Local Laws have from time to time been made ; the latest in the year 1749, but their authority is not generally acknowledged ; and the only form by which they now exist is not creditable to the Government, or consistent with the personal Security of the Inhabitants. The mistakes that occurred in transmitting to Your Lordship certain Extracts from an unauthenticated Copy of a late edition of the Batavian Statutes, in which some momentous alterations have been found in the punishment declared in an earlier Copy of the same Code for the Murder of Slaves by their Masters sufficiently proves the danger of relying upon such an uncertain Text, and

the necessity of reforming it, or substituting another in its place.

Although we are strongly impressed with the important advantages which the Colony will derive from the introduction, or rather the possession of a system of English Jurisprudence, yet we cannot be insensible on the other hand to the inconvenience that must be felt by the change. That which we would propose to introduce is not therefore contemplated to be sudden or complete. Impressed indeed with the great difference of circumstances in which this or any other Colony has stood towards the Mother Country, especially when recently incorporated into her dominion, we should be sorry to suggest a summary declaration of the legal force of the Statutory Laws of Great Britain.

The forms of Process we conceive may, after due notice, be assimilated to those of England, and we think that the trial by Jury may be placed within the reach of those willing to avail themselves of that privilege. The Laws of landed property on the other hand are at once so simple and efficient, and so well protected by Public Records, that we should regret to see any other changes in them than such as may tend to enlarge the rules of Inheritance, and give more ample scope to the testamentary Dispositions of the Parents. We should venture to propose that all future Laws should be framed in the spirit of English Jurisprudence, but that the existing Statute Law should not be made binding in this Colony, except in so far as it may be specially declared so by the subsequent enactments of the British or Colonial Legislatures.

The Class of Persons by whom the inconvenience of change will be most severely felt, consists of the Advocates and Professional Persons who have been admitted to act as Proctors in the Court of Justice. The former have been educated almost entirely in the principles and practice of the Civil Law, and have no other acquaintance with those of English Courts or Legislation than that which an accidental acquaintance with the most common Authorities may have given them. To these persons, the introduction of the English technical forms of pleading if too much insisted upon will present a most serious difficulty, while they will be slow to recognize the great advantages that arise from the logical and perspicuous separation of

questions of Law and Fact, and the necessity (so apparent from their own process) of strictly confining oral evidence to the proofs of those points, and only those, which the pleadings have brought to issue. It is certainly matter of regret to be under the necessity of disappointing the just expectations of those who have devoted both time and expense to the acquisition of that knowledge, which a change of circumstances has rendered unavailing; and although a certain number of the present Practitioners may be able to acquire a sufficient knowledge of the Law, and even now possess sufficient fluency in the language to practise in an English Court, yet there are several who will probably feel compelled to retire; and His Majesty's Government will find it necessary as well as just to relax a rule of admission to the Bar of the Courts of this Colony, by which those Candidates only, who have taken degrees at Dutch Universities have been hitherto admitted to practice. The junior Members of the Bar who might not be willing to continue the exercise of their profession under circumstances so unfavorable to their future success, would not be unwilling perhaps to accept the situations of Clerks of the Peace, and after acquiring some knowledge of the practice and principles of English Jurisprudence, to become Judges of the County Courts.

With these impressions of the inconvenience that will be felt by the introduction of the English System of Jurisprudence, we should not have ventured to submit it to the adoption of His Majesty's Government, if we had not felt that great as the inconvenience will be on its first introduction, it would yet be preferable to the tedious process of engrafting a modified system of it upon that which now exists, the greatest merit of which would consist in an imperfect approximation to that which we presume it is the wish of His Majesty's Government to establish in as pure and perfect a form as may be found compatible with the relation, means, and extent of the Colony. We think however that the abrupt introduction of the English Practice at the same period in which the language of the Courts of Justice is to be altered, will unnecessarily increase the difficulty of the operation; and that it should be delayed until opportunities occur, and more especially until persons in some degree qualified to conduct the business shall have arrived in the Colony. The Rules of Proceeding also should be promulgated



some time before they are acted upon, and opportunity should be afforded to the Practitioners to make themselves acquainted with the forms of process and of pleading.

The first, and most essential point to be secured, and even under any change that His Majesty's Government may be pleased to make, is the appointment of British Advocates to fill the judicial Situations which will be vacant on the retirement of the present Members from the Bench. Without any disparagement to the Gentlemen who now fill the Ranks of the Bar of this Colony, it is not to be expected that they will suddenly relinquish the professional doctrines and opinions which all of them have learnt to cherish and respect, and that however fit in other respects, they can be expected to divest themselves on the judicial Seat of the local influence and partialities, the absence of which constitutes the brightest excellence of the English Judicial Character.

We believe that the Colonists themselves are fully prepared to appreciate the advantages of such a change; nor has it been the uniform practice in the Colony to select the Judges from the class of Advocates.

We recommend therefore that the Judges who may henceforth be appointed to the Supreme and Lower Courts of Justice in the Western and to the Court in the Eastern Province should be Barristers of the English, Scotch, or Irish Bars, of not less than five years standing. To this condition we beg leave to press the annexation of another which as long as Slavery exists in the Colony, we consider as of indispensable observance by those who are chosen to fill the judicial Seats in both Provinces of this Colony, namely, a legal incapacity to hold any manner of interest or property in Slaves either by purchase, Will, Inheritance, Marriage or Donation. There are other Officers also to whom this incapacity should be equally extended, and whom we shall hereafter enumerate; in the mean time, we do not hesitate to add that in consequence of the increase of free Labourers both of the White and Black Population, no inconvenience whatever will arise from the obligation we seek to impose upon those Functionaries employing free and hired Labourers, and from extending the obligation to domestic, as well as to predial Services.

Adverting to the imperfect nature of the Sanction under

which the Court of Justice has continued to be held since the year 1803, and under the hope that what we are now about to propose will be permanent we think that no Instrument less solemn than that of a Charter of Justice should be the medium of communicating the Royal Pleasure for the establishment of the Colonial Courts.

We propose in the first place, that a Court with an appellate jurisdiction should be created, and that its powers should be so constructed as to give weight to the decisions of the inferior Courts when they are confirmed ; and on the other hand to afford an opportunity of correcting their judgment by a second and more mature consideration of them ; But with a view to create despatch in the determination of points of Law which may arise from the Pleadings, and before issue is joined upon the facts, or upon any special finding of the lower Courts or by a Jury, we would recommend that the discussion of such points should be held before the Full Court, then, and in such Cases, to be composed of the Supreme Judge, and the Judges of the lower Court ; and that their decision should be considered as final, and without appeal, except in cases where the opinion of the Judge of the Supreme Court may differ from those of both the Judges of the lower Court, and when also the Amount of the Sum claimed exceeds £400 Sterling. In all cases of Appeal however from the inferior Courts to the Supreme Court, it will be necessary that the evidence given should be reduced to writing and signed by the Witnesses, and the Courts should transmit a Copy of such evidence together with the other proceedings, judgments, decrees and orders, to the Appeal Court, and we think that no fresh evidence should be received there.

The appellate Jurisdiction of the Supreme Judge should also be extended to all causes that have been heard and finally decided by the Sentence of the Judges of the Lower Court, without the intervention of a Jury, and in which any right has been claimed and disputed ; and when the sum claimed amounts to £200 Sterling.

The Right of Appeal from the decisions of the Supreme Court to His Majesty in Council, we recommend to be limited to cases in which some right is claimed, and the sum claimed and disputed exceeds £500 Sterling ; the conditions of Appeal

remaining as they are at present. In the Proclamation by which the Court of Appeal was first constituted in the year 1809, the Amount of appealable Cases from the Court of Justice to the Court of Appeals was declared to be £200 or 2,000 Rixdollars ; and from the decisions of that Court to His Majesty in Council “£500 or 5,000 Rixdollars,” since that period, in practice the amounts have been calculated in Rixdollars without any reference to the fluctuations in their value.

We further propose that the lower Court of the Western Province should be composed of two Judges whose jurisdiction should extend over all persons whatsoever, excepting the Governor, Lieutenant Governor, and the Supreme Judge, in the trial and decision of all Suits arising upon Contracts, Injuries and Damages ; Interests in their Boundaries, Rights to Lands and Houses, and property to or in which the King or Individuals claim to be entitled ; of Claims of Slaves to their freedom or property, of Testamentary Causes ; of Suits for Divorce, and Vinculo Matrimonii, and of Separation ; and with the exception of those in which the sum claimed and demanded does not amount to £60 Sterling.

We have already had the honor to enumerate those points, the discussion and decision of which we think should be referred to the Judge of the Supreme Court, assisted by the Judges of the lower Court, and we would now observe, that all applications for new trials had before the latter or either of them, should, for reasons which appear to us to be obvious, be addressed to the Judge of the Supreme Court, sitting alone, without the expense and delay of an Appeal.

The Jurisdiction of an Equity Court, we think should be given to the Judge of the Supreme Court with authority to one of the Judges of the Lower Court to sit for him in case of illness or necessary absence, and subject to the right of Appeal to His Majesty in Council, limited as in Civil Cases. The Person who may be appointed to act as Master in that Court may be considered as Referee of such Cases in the Lower Court as the Judges may deem fit for amicable adjustment or arbitration, or in which both parties may consent to a reference for the purposes of amicable adjustment. Considering the nature of the duties thus assigned to the Master in Equity,

we are much disposed to recommend that he should neither be a Native or domiciled Inhabitant of the Cape.

In the Eastern Province we propose that the powers and jurisdiction with which the Judges of the Lower Court in the Western Province are invested by the Charter, should be exercised by one Judge, together with the equity Jurisdiction, which we have recommended to be given to the Judge of the Supreme Court ; and the Courts of all the Judges should be declared to be Courts of Record.

In limiting the Judicial Establishment of the Eastern Province to one Judge, Your Lordship will not fail to infer that we have been principally guided by the difference that exists in the numerical Amount and Character of its population, and the difference that will probably be found in the nature as well as the amount of the judicial business. Considering that Graham's Town comprises a Population inferior only to that of Cape Town ; and that the circumstances under which the Inhabitants of the District of Albany have been placed tended to produce a great conflict of interest, and a disposition to litigation, we think that the Seat of the Court of Justice of the Eastern Province may be established there with some advantage, and without inconvenience to the other Districts of the Province. The jurisdiction of the Judge should be precisely the same as that of the Civil Court of the Western Province, with the exception only of the references of Points of Law arising upon the Pleadings, which we think should be admitted at that stage of the Cause, unless they are of such a nature as to bar the right of Action, and should then only be admitted in cases where the amount claimed and disputed may exceed £200 Sterling, but at the same time reserving the right of the party who is dissatisfied with the decision, of assigning all questions of law that may have arisen, as good grounds of appeal to the Supreme Court at the conclusion of the Suit.

With a view also to ensure to the Inhabitants of the Eastern Province the benefits of as ample consideration of their interests, as we have provided for those of the Western, we propose that the Supreme Court should always consist of the Judge, and the two Judges of the lower Court, whenever any reference or appeal should be made to it from the Court of the Eastern Province.



The tenure of the Commissions of the Judges we recommend to be during good behaviour, with a claim to Pensions amounting to £1,000 Sterling to the Judge of the Supreme Court and £700 Sterling to the Judges of the Lower Court, after a Service of 12 years, or after half that term, if the party retiring is in bad health, and His Majesty approves of the allowance, and the Judge of the Eastern Province after a Service of 12 years.

We think that the rank of the respective Judges should be determined by the Charter, and that the Judge of the Supreme Court should take rank next after the Governor, and also after the Officer next in military Command, if he should have the rank of Major General in His Majesty's Service. The Judges of the lower Court should take rank after the Officer next in military rank to the Governor, provided he has that of full Colonel in the Army, and we think that all the Judges now enumerated should take precedence of the Members of His Majesty's Council.

It remains for us to make provision for the jurisdiction of the Vice Admiralty Court, and we propose that it should be held by the Judge of the Supreme Court in the Western, and the Judge of the Eastern Province, with an exclusion of the right of other Courts to interfere in questions of Prize of War, or those touching the general Laws of Navigation and Trade of Great Britain, including the importation of Slaves.

We recommend however that the jurisdiction which is given to the Court by the 24th Clause of the 5th George 4th, Chap. 16, should not be understood or taken to deprive the Court of the Sitting Magistrate of Cape Town or the County Courts of the same power of hearing and determining Complaints of Prize Apprentices against their Masters as they now possess, and of imposing Fines and of enforcing payment by distress and imprisonment. The Complaints of this nature that have been made to the Judges of the Vice Admiralty Court since the establishment of the jurisdiction have not been numerous, and do not exceed Eleven. We think that it may be advantageous to the Prize Negroes, and advance the objects of the Act of Parliament to consider the jurisdiction of the Vice Admiralty Court over their complaints as concurrent with that of the Courts we have named. In a similar manner, we should recommend

that Actions and Suits of Seamen for their Wages, should be equally liable to the cognizance of the Vice Admiralty Court, and Provincial Courts ; and that a suggestion of the commencement of Action in either of these Courts, should be a sufficient bar to all proceedings in the other for the same cause of action.

We think that it will be expedient to give a Vice Admiralty Commission to the Judge of the Eastern Province, as questions of considerable importance have arisen there, both as affecting the Laws of Trade, and the observance of the Laws prohibiting the importation of Slaves.

The Situation of Registrar in the Vice Admiralty Court at Cape Town has been vacant since the year 1819, and the duties have been performed by a Gentleman who holds a temporary appointment from the present Judge with the approbation of the Governor.

We should recommend that the person who may be appointed to the Office of Attorney General should also receive an appointment to that of King's Advocate, as we find, that for some time, the Office of King's Proctor is held by a Gentleman who has resided for some time in England, while his duties, which are now inconsiderable are performed by one of the persons who have been admitted to act as a Proctor of the Court. We think that circumstances have occurred affecting His Majesty's Revenue, which fully justify us in recommending the care of it to the most efficient Law Officer employed and paid by the Crown.

We do not consider it necessary to trouble Your Lordship with a detailed consideration of the Rules by which the Sessions of these several Courts are to be regulated, further than to observe, that we anticipate great advantage from the division of the judicial year into Terms, from the augmented Despatch that it will create in the execution of the process of the Court.

We propose that when the division of the Colony into Provinces has been effected, the Judges of the two Courts in the Western Province and the Judge of the Eastern Province shall make their respective Circuits twice in the year, as we calculate that neither of them will require more than one Month. Opportunities will thus be afforded to the Judges to make themselves acquainted with the administration of Justice in the Districts, with the state of the Gaols, and with the general

condition of the Inhabitants. The Secretaries and Registrars of the Courts should give their attendance upon these occasions, and keep the Records, and the Summonses, and Notices should be issued by the Messengers or Sheriff's Officers who reside in the different Districts, and who now perform nearly similar duties.

We have already had the honor to notice in this as well as in a former Report, the great disadvantages to which the Suitors in the Circuit Courts are exposed from the want of professional advice in the preparation and conduct of their Causes. A partial remedy for them was attempted in the Proclamation by which the Circuit Courts were established, by the appointment of Officers named District Clerks, who are now distributed in the Towns in which the Circuits are held. The Salaries assigned to these Officers, have not been sufficient to secure the contemplated advantage of professional knowledge; and the Causes are therefore brought forward by them in a state that renders it very difficult, even for Judges unaccustomed to the observance of the technical Forms of Actions, to distinguish the point at issue, or to shape the investigation in conformity to it.

We certainly should feel the utmost reluctance in proposing a measure which by augmenting the expense should have the effect of depriving the Inhabitants of the Colony of the means of legal redress; but the present is one of those instances which are to be found in the judicial history of all Countries, and which prove that the cheapest forms of process are not always the safest or most direct.

We think that a considerable improvement might be effected in this part of the judicial System, by requiring that no action should be entered for trial on the Circuit, which had not received that degree of Form in the pleading which would enable the Judge at once to direct his attention to the point at issue, and the parties to adduce such proof only as should be necessary to support it. A timely reference of the original cause of action and of the grounds of defence to the consideration of professional Men in the Chief Towns of each Province, would neither be attended with much expense nor inconvenience to those who should prefer the trial of their Causes by the Circuit Court; and the practice might ultimately lead to the employment of

professional Men on the Circuits, which we consider as very desirable for all Parties, but which from consideration of expense alone, we hesitate to recommend as indispensable. The effect of the measure which we have the honor to propose, would be to dispense with the appointments of the District Clerks, and to transfer the preparation of Actions that are to be tried on the Circuits to professional Men resident at the seats of the Courts of Justice. We would here once more endeavour to express the strong sense that we retain of the difficulty that will at first be felt by the Practitioners, especially by those in the Country, in conforming to the Rules which distinguish the pleadings of the English Courts from those of nearly all other Courts in Europe, and also to declare that much of the benefit that we anticipate from their introduction, will depend upon the caution with which they may be adopted at first and brought into practice.

After this brief notice of the Pleadings, it is necessary that we should advert to the means by which the intervention of Juries may beneficially be introduced into the practice of the new Courts of Justice. We are ready to admit that neither the habits of the people, their wide dispersion throughout the Country, nor their feelings of indifference upon all public questions are favorable to the introduction of it; yet if we are right in attributing these defects of Character to the influence of former institutions, and are endeavouring to find a corrective for them in the institution of others of a more liberal kind, it would appear to be inconsistent with such an attempt, as well as unjust to the people themselves to divest the new Judicial System of one of its most powerful Agents. Looking at the general condition of the Inhabitants of the Colony and excluding from that view the two Classes of Hottentots and Slaves, we think that the general equality that is observable in it is favorable to the principle at least, upon which trial by Jury is professedly founded, and although we look with sanguine expectation to the benefits which must arise from the display of a spirit of impartiality and justice in the conduct of the Judges, yet we cannot help placing a stronger reliance upon the effects of Jury trial for convincing the Inhabitants that no attempt against their rights or property, from whatever source it may proceed can be successful, as long as they faithfully and



conscientiously discharge the functions of Jurors. We may perhaps appear to have attributed a greater degree of influence to this distinguished feature of British Jurisprudence than it may be thought to deserve, but we here beg leave to assure Your Lordship that such is the feeling of intimidation with which the Courts of Justice have been approached in this Colony, and such the suspicion of the operation of natural and local partialities that we can conceive no other or better antidote for them than the collective voices of Individuals chosen without any reference to origin or to colour for the discharge of the duties of Jurors. We have infinite satisfaction in expressing our belief that no illiberal prejudice in the minds of the White Inhabitants against persons of colour will operate against the admission of that Class upon terms of perfect equality in the performance of this duty. For the first five years however, we are disposed to think that its operation should be confined to Cape Town, and to the County of Albany in the Eastern Province, for we do not think that on the Circuits it would be practicable to assemble a sufficient number of Persons acquainted with the English Language, who could form a Jury even on the limited scale to which we think it prudent at first to confine it. The number we recommend to be reduced to nine persons, and that the questions submitted to them should be decided by a Majority consisting of not less than two thirds. The qualification for serving we would extend to every Inhabitant of Cape Town, and the Cape District, who has resided three years in the Colony and who pays not less than £1 10s. Sterling in assessed Taxes to the Government, with the exception of Clergymen, Physicians, and Medical Men, Advocates, Persons employed in the Offices of Government, Attorneys and Schoolmasters.

With the view of meeting the objections which we know are entertained by many of the Inhabitants to this form of trial, we would recommend that resort should not be had to it in Civil Cases unless the Plaintiff and Defendant, with the consent of both, (*sic*) and upon no occasion in the trial of questions touching the Freedom, Civil Rights, or the Property of Slaves and Hottentots.

We have had the honor of stating our intention to recommend the transfer of the Jurisdiction that is now exercised by the

Landdrosts in Civil Cases, amounting to 300 Rixdollars, to Individuals appointed by His Majesty's Government, and whom we would beg leave to designate as Judges of the County Courts and Resident Magistrates. We think with the improvement that we have had the honor to recommend in the Constitution of the District Courts, we may without danger to the interests of the Inhabitants, fix the pecuniary amount of the Civil Jurisdiction of the Judges of the County Courts at £30, the value of 400 rixdollars at the present period.

One Judge will be required to preside in the Court of each County, and persons to be named Clerks of the Peace, (whose duties will in many respects correspond with those of the present Secretaries) will act as Public Prosecutors in the Criminal Cases, and Secretary and Registrar in the Civil Cases. For the Discharge of the same duties now performed by the Landdrost and Heemraden of the Cape District in the Petty Debt Court in respect of Causes arising in Cape Town we propose to assign them to two Commissioners, consisting of the Master in Equity, and the present Sitting Magistrate of Cape Town to be designated "Commissioners of the Court of Requests or Small Debt Court." Attorneys and Notaries may, we think, be admitted to practise in this Court, but not to the exclusion of parties when they wish to appear.

We have had occasion to allude to the Situation of the Advocates now practising in the Colonial Courts, and as we may reasonably expect that the introduction of the new System will gradually attract Persons qualified by their Education to take a part in it, it may be desirable to state a few of the circumstances by which their success may be influenced. It is not likely, nor do we think it desirable, that the future Practitioners should receive their professional education in a foreign university. On the contrary we should propose that no Person should in future be considered admissible to practise who is not a Member of the English, Irish or Scotch Bar, or who has not been admitted an Attorney of one or other of the Courts or been passed as a Writer to the Signet in Scotland, and who cannot produce certificates or documents to the satisfaction of the Judge of the Supreme Court, both as to that point and to moral character and conduct. The admission as well as the suspension and exclusion of the Practitioners should be placed



under the sole jurisdictions of the Judge of the Supreme Court of the Western, and the Judge of the Eastern Province.

It has been usual to allow the Advocates to combine the practice of Proctors or Solicitors, and the latter to appear in Court to conduct the ordinary business and causes of small amount and little difficulty.

Considering the general embarrassment that prevails at present throughout all Classes of the Inhabitants and the small encouragement which the practice of the Bar appears to hold out we should not recommend that the separation of the duties of Advocate and Solicitor should at present be enforced, but it should be encouraged on all favourable opportunities, according to the practice observed in those Countries in which the Civil Law Prevails, the Preparation and Custody of contracts, agreements, Judicial acts, Wills and Testamentary Declarations is entrusted to Notaries, who record and enter in their Protocols the substance of the Declarations of Parties made in their presence and attested by Two Witnesses. Notarial copies of these acts are held to afford full Proof of the matters contained in them. This mode of executing and Proving Deeds and Contracts is certainly not conformable to the existing Practice in England but it seems to afford Satisfaction and Security to the Great Body of the Inhabitants, who unaccustomed themselves to the care and Preservation of Private Documents, are glad of opportunities to transfer that charge to others especially when clothed with some degree of Official Responsibility. We should therefore be reluctant to see them deprived of such facility as this Practice affords in the transaction of their business ; at the same time we should not advise that Parties who may wish to have their wills or contracts executed according to the English method should be deprived of that advantage, provided that it is subject to such Judicial Proof as is required upon the Production of similar Documents in the Courts of Justice in England. Another important branch of the Business of Notaries consists in serving Legal Notices upon Parties during the Progress of their suits and in taking their Declarations and those of Witnesses in the first Instance. By the Introduction of and the approximation to the English method of Procedure, this portion of the notarial Duties will be abridged and we think with considerable advantage. The Notaries have

hitherto been excluded from Practising as Proctors in the Courts of Justice and in the Court of Small Debts, in which last agents are allowed to appear and conduct causes for Parties who choose to employ them. We are not aware of any substantial objections to the admission of the Notaries to this Practice at Cape Town, or at the seat of Judicature in the Eastern District, but we think that it should be confined to those places. In conformity to the practice that has been observed the Notaries should be required to produce their Protocols for the examination of the Judges at stated Periods, and we strongly recommend that their qualifications and certificates of professional education should be subject to a much severer examination by the Judges of the Court than has been thought necessary. The same observation will be found applicable to the appointment of Proctors in the Vice Admiralty Court, and we may take this opportunity of stating that since the Death of the late Registrar, no new appointment to that situation has taken place, and that the office is filled by the nominee of the present Judge, and with the sanction of the Governor.

Having thus explained the principles upon which we recommend that the Courts of Superior Jurisdiction should be framed it will not be necessary that we should go into any lengthened Detail of those by which the County Courts, those of the resident magistrates and that of the Court of Requests substituted for the Petty Debt Court in Cape Town and for the Court of the Landdrost in the Cape District should be regulated in the Trial of civil causes. By virtue of the Regulations prepared for the Country Districts in the year 1803 and during the Government of the Batavian Republick, the Courts of Landdrosts and Heemraden have taken cognizance of causes respecting Boundaries of Land, servitudes and rights of Way and impounding of Cattle and Trespasses which have arisen within their respective Districts and that have not touched the Right to Loan Places, or the general Tenure under which a large portion of the land in the Colony was held at the Period in which the Regulations were issued. We think that it will tend greatly to the convenience of the agricultural Inhabitants of the Colony that the Decision of such questions should continue to form part of the Jurisdiction of the Courts that we have named,

subject nevertheless to an appeal to the higher Courts of each Province whenever the Point at Issue relates to the Claim or exercise of a right, and in cases of Disputed Boundary to a Board of Commissioners of Lands, and we think that Jurisdiction in all Personal actions should be limited to those in which the amount demanded does not exceed £30 Sterling or 400 Rixdollars. The Jurisdiction given to these Courts and afterwards extended to the small Debt Court, extended to causes the value of which amounted to £60, which in the year 1803 was the approximate value of the sum of 300 rixdollars ; and when there existed only one Court in the Colony for the trial of Civil actions of higher amount, such an extent of Jurisdiction might not have been too large. An application has been made by the Inhabitants of the District of Albany for raising the Limit from £22 10s. the present value of 300 rixdollars to the former approximate value of £60, to which we felt disposed to accede under the Circumstances of the moment. But advertting to the establishment of a Court of higher Jurisdiction at Graham's Town or at Uitenhage and generally to the Distance of those places and of Cape Town from the respective Counties of each Province, we think that the Pecuniary value may be properly fixed at £30 Sterling or 400 rixdollars. Independently of the special appeal which we have recommended to be given from the Decisions of these Courts, and notwithstanding the confidence that may be justly placed in the judgment and qualifications of the persons who may be selected to preside in them, we think it desirable that appeals should be allowed from their Decisions in causes where the sum in Demand has exceeded £5 Sterling to the Courts of Circuit and to the lower Court in the Western or the Court in the Eastern Province. A Discretion may be left to the Judges of the County Courts to enforce execution of their Sentences when given upon clear Proof Oral or Documentary, and to require Security for repayment in case the sentence be reversed, and a great abridgement of the Periods allowed for prosecuting appeals may take place, in consequence of the establishment of Superior Courts in each Province. We also think that the Cautionary Deposit of 10 rixdollars, (15 Shgs. Sterling) that is required to be made in all appeals from the District Courts and that is paid by the unsuccessful Party may henceforth be dispensed with. As a further protection to

the Inhabitants against any excess of Jurisdiction, Irregularity or error committed by the Judges and Magistrates of the County Courts, a general Power of superintendence and control should be granted to the Judge of the Supreme Court and the Judges of the Lower Court collectively and to the Judge of the Court of the Eastern Province, and we recommend that a Clause should be inserted in the Charter, giving to these Superior Courts a power to correct and quash the Proceedings of the County Courts, the Court of Requests and of the Resident Magistrates, and also to issue Writs of Mandamus and certiorari.

The Jurisdiction that is exercised by the Landdrosts and Heemraden in the several Districts and more recently by the Deputy Landdrosts in their subdivisions for Legalising the enregistration of marriages in the Matrimonial Courts was regulated in the year 1804 by a Provisional Ordinance of the Commissioner of the Batavian Government, by virtue of which Parties who are desirous of entering into the Matrimonial State must apply to the Courts composed of the Landdrost and Two Heemraden to whom written Testimonials of the consent of Parents or Guardians must be exhibited, if the applicants should happen to be youths under 21 years of age or females under 18, after those Periods, such consent is not Indispensable, but is considered a mark of respect which is due to the Parents. In case of their refusal, the Court may summons the Parents and after hearing their objections and endeavouring to adjust them may suspend the Publication of the Banns and refer the Decision to the Court of Justice. In case of the Consent of the Parents being signified, and indeed in all others, whether the Parties are strangers in the Colony or are known, the Matrimonial Court is bound to administer Interrogatories to them for the purpose of ascertaining their place of abode and age, whether they are Christians or Slaves, whether they are bound by any previous engagement, whether they have been ever married before or have had children by such marriage, and lastly whether they are related to each other by the ties of consanguinity or affinity which are described in a subsequent article of the Instructions. These Inquiries are thus brought entirely within the cognizance of the Local Courts, and no marriage can be solemnized either in the Dutch reformed Churches or in those of other Religious Communities or can the Banns of Marriage be published, or



the Licence of the Governor be obtained dispensing with that form, except upon a certificate of the Secretaries of the Matrimonial Courts that the Parties have appeared before them, and that no legal objections have been found to the marriage. If it should appear that one of the Parties has been married, Proof is required of the Dissolution of the Marriage by Death or the Sentence of a Court, and if any children should be in existence, the offspring of such marriage or Descendants by representation who are still minors, a certificate is required from the Board of Orphan Masters of the actual receipt or of security being taken for the shares of such children, and duly registered. The Permission of the Governor is requisite for the enregistration of the Marriages of Minors whose Parents are not in the Colony, as well as of Persons who are Strangers or Passengers on board Ships of War or merchantmen, and who have resided for a short time without Permission. A Fee of Five rixdollars is payable to the Church of the Parish to which the Bride belongs and the Costs of appearance before the Matrimonial Courts whether held at the usual place or transferred by the Desire of the Parties to their own houses are regulated by Tariff. The fee of 7s. 6d. is paid to the funds of the Dutch reformed Churches, without any reference to a Difference of religious persuasion. At the period in which the Regulations for the Matrimonial Courts were issued by the Batavian Commissioner the Religious solemnization of marriages according to the form contained in the Heidelberg Catechism was regularly observed in the Dutch Reformed Church. Under the Batavian administration this solemnity was dispensed with, marriage was held to be a mere civil contract, and the vows and Promises of mutual fidelity were taken before the Matrimonial Courts. After the recapture of the Colony in the year 1806 a Proclamation was issued by Sir David Baird dated on the 26th of April of that year, requiring that Marriages should be registered in the Matrimonial Courts of the Districts, and declaring that "as the marriage ceremony is reckoned a Holy Institution it should in future be performed by an ordained Clergyman or Minister of the Gospel belonging to the Settlement." By this Proclamation the marriages are now registered and solemnized. The Licence of the Governor supersedes the Publication of Banns, and the Clergy of the Reformed Church have the Power

of permitting the Publication on one day. The benefit that appears to result from the exercise of the Jurisdiction of the Matrimonial Courts consists in the regular and accurate registration of marriages and in Security for the Portions of Property devolving upon children at the Death of either of the Parents and when it is supposed to be endangered by a new matrimonial engagement of the survivor. The applications to the Court are heard at their monthly sittings, but at Cape Town on Saturdays. The Proceedings are not attended with much Delay unless objection should be made on the Part of the Parents. To the poorer Classes of the Community, the forms of the Court are the least beneficial, although they are the most burthensome, and as far as regards the proof of celebration of marriage which cannot be said to be afforded by the extracts from the Registries alone or the answers of the Parties to the Interrogatories to which we have alluded or the certificates of the Secretaries of the Matrimonial Courts, we consider that all the objects that are contemplated by them may be equally secured by transferring the Duties performed by them to the Clergyman of each Parish, who may be charged with the entry and Registration of the names of the Parties in the Church Registers and by affixing their Signatures and that of Two witnesses to the Entries. It will be expedient to Declare in a legislative enactment that the offence of maliciously falsifying, erasing or altering these entries shall be liable to the Punishment of Transportation for not less than Fourteen years. No Clergyman should be allowed to celebrate or register the marriage of any free persons without a certificate of the Consent of their Parents which should be held necessary to legalise the marriage of females under eighteen years of age and of males under 21, the Parental Control or objection ceasing altogether, and being deemed ineffectual after those Periods. A certificate also should be required of the due Registration of a Security for the portions of the children of a former marriage or a receipt should be produced, and for the purpose of affording time for the necessary Inquiries into the Circumstances of the Parties the Banns of Marriage should not be published until they had completed a residence of one month at least within the Parish, the Power of Dispensing with the Publication of Banns being left to the Governor or to the Lieutenant Governor. It may also be expedient that their



Permission should be given for the marriages of minors whose Parents are absent and of Persons who are Strangers or Passengers in Ships.

With a view to facilitate the inquiries that are frequently made from different parts of Europe, chiefly from Germany and Holland, respecting the marriages of persons who have left connections there as well as to give additional Security to the preservation of the records of marriages, we recommend that Certificates of all Marriages solemnized and registered in the books of registry of each Parish should be transmitted by the Clergymen to the Registrars of each Province, by whom they should be entered in Books kept expressly for the purpose and Provided with alphabetical references to the names of the Parties.

#### CIVIL RIGHTS.

We have thus submitted to Your Lordship the nature and extent of the civil Jurisdiction which we propose to give to the Courts of the Colony and in which we have had three principal objects in view, the entire Separation of the Executive from the Judicial power, the Establishment of an appellate jurisdiction within the Colony for the purpose of correcting the errors and controlling the action of the Inferior Courts, and lastly an improvement in the Structure of the latter with a view to secure them as much as possible from the influence of local prejudice and interests.

In recommending the gradual introduction of the principles of British Jurisprudence we trust it will be understood that the right of every Individual to the equal protection of the Law, to the acquirement of Property and to the undisturbed enjoyment of it will be fully guaranteed. In recommending the adoption of this principle it becomes necessary for us to enter into some explanations of the circumstances by which the civil capacities and condition of the various classes of the population are now regulated.

Previous to the surrender of the Colony in the year 1795 all those persons were considered to possess the rights of Burghers who had been permitted by the Directors of the Dutch East India Company to proceed to the Colony in that capacity or

who were the legitimate children of such persons or of civil Servants of the Company and born in this Colony, or finally those who after being discharged at their own request were permitted to reside in the Colony, with a liability to be recalled to its Service in case of necessity or of misconduct. This distinction, including also a disqualification for the exercise of the Burgher Trades such as those of Baker, Butcher, Wine Merchant and others, was abolished by the British Commanders in the year 1795, and as the number of Persons whose rights of Burghership under the regulations of the former Dutch Government were considered imperfect, had been found to have increased upon the resumption of the Colony by the Batavian Government, in the year 1803, those regulations were partially revived and the concession of the right of Burghership was limited to those persons who had resided three years in the Colony and could give proof of good conduct and character. All other Individuals who were not born in the Colony or in Holland and who had not procured a proper title of Burghership or permission to settle in the Colony were considered as foreigners or Aliens whose right of residence was temporary and liable to be withdrawn at the pleasure of the Governor without the assignment of any reason or the creation of that responsibility in him which followed the exercise of the power of political removal of a Burgher, and which we have already noticed in a former Report. The character and number of the Persons who were amenable to the new law of Burghership introduced in 1803 appeared to the British Commanders at the recapture of the Colony to require its continued application in 1806, and a Stipulation was made to that effect in the 5th article of the Capitulation wherein it was agreed that "the distinction between the Burghers and other Inhabitants was to remain the same and subject to the same restriction as under the Dutch Laws." Since that period the capacity of Aliens to acquire the right of Burghership, including that of holding and transferring property and of trading, has been limited by a proclamation dated 2 May 1817 and issued under your Lordship's sanction to persons of good character and conduct who had resided five successive years in the Colony upon taking the oath of allegiance to His Majesty and on payment of a fee of 250 rixdollars or £18 15 0 Sterling for the deed of Burghership, while the con-

cession of the right of residence both to British Subjects and Aliens has been declared by a later proclamation of the 26th June 1818 to be vested in the Governor alone, and that persons who reside in the Colony without such permission are liable to the pains and penalties contained in a proclamation of Governor Janssens dated 30 June 1803.

It is upon this principle that all Persons whether British Subjects or Foreigners upon their arrival in the Colony are required to apply at the Office of the Secretary to Government for permission of residence, and if they proceed into the interior for Colonial Passes which are granted during good behaviour and obedience to the orders and regulations of the Government.

We consider therefore that under the existing regulations British Subjects who proceed to this Colony without the permission of His Majesty's Government are obliged to obtain that of the Governor to enable them to reside in it, and that the power of removing them or aliens until the latter have obtained letters of Burghership is limited by the condition which the permission of residence contains of good behaviour and obedience to the orders and regulations of the Government.

The power of granting or refusing permissions of residence is one to which the Governors have succeeded by the terms of their Commission as it forms a branch of that authority which existed under the Dutch Government. It will be observed however that it is a power without responsibility and might be viewed with feelings of jealousy and distrust by many Individuals who resort to the Colony for temporary purposes, especially those in the Civil and Military Service of the East India Company, a Class of Persons whose access to the Colony and whose residence in it are deserving of every facility and encouragement which the Government can afford. The exercise of this power was Officially threatened, but not enforced against the indentured Servants of several British Settlers in the District of Albany as a means of compelling them to fulfil their engagements, although it might have been doubtful how far persons who had come to the Colony under a general sanction of the British Government were liable to the operation of a law that was applicable only to those who might come

without any sanction whatever. No impediment has been given to temporary Residents consisting either of British Subjects or Foreigners, to carry on trade in the Colony, but the right of retailing Wine, Beer and Spirits in Cape Town and the neighbouring places is limited by a proclamation issued by the Acting Governor in the year 1821 to Persons who are Burghers of the Colony.

Similar permission would be conceded by the Government to English Subjects who were temporary residents to purchase and acquire property, and we are not aware of any instance in which it has been refused. The right of residence however must still be held by a precarious tenure, until it shall be declared, that the acquirement of property in this Colony as well as the right of residence in it, is not only open to all natural born Subjects of His Majesty but also exempt from all restrictions except those which the Law and the Tribunals of the Country may impose.

Having submitted to Your Lordship this view of the rights that are attached to the condition of those who are Burghers of the Colony and the mode in which those rights may be acquired either by natural born Subjects of His Majesty or by Foreigners, we will advert to the circumstances of that Class of the Inhabitants who come under the description of "Free Blacks." They consist of Persons who during the existence of the Dutch East India Company were sent from Batavia or the other dependencies, either as Convicts or in attendance upon their Masters, or as manumitted Slaves, and many of them consist of Malays and Natives of Malabar, who were not in a state of Servitude. They and their descendants now constitute a large portion of the lower Class of Tradesmen, Fishermen, and Mechanics. The Prize Negroes whose terms of apprenticeship have expired are also included in the description of Free Blacks.

Although it does not appear that these classes are disqualified by positive law from acquiring real property in the Colony, yet as the profession of the Christian faith is held to be an essential condition of free Burghership, and as the Malays and Free Blacks and (we regret to add) a great Majority of the Prize Negroes are Mohammedans, their title to acquire and hold real property in the few instances in which it occurs rests upon the



permission of the Governor alone. We shall hereafter have occasion to explain the peculiar nature of the regulations of police by which the personal freedom of this Class is restrained, and we proceed to notice the condition of the Hottentots, in which Class is generally included the mixed race of Hottentots and the white and free coloured Inhabitants denominated "Bastaards." Twenty three years have now elapsed, and the greatest portion of the time under the declared acquiescence of the British Government, since a formal and authoritative declaration was issued in the instructions of Commissioner De Mist for the Government of the Country Districts, by which "the Aborigines of this Colony, the Hottentots, were to be considered and treated as free people, who had a legal right of residence in the Colony and who were therefore the same as all other free People to be protected in their persons, property and possessions."

Their right to acquire property by purchase or to take it by descent is not denied, and we find that the property of Hottentots as well as of Free Blacks is administered and distributed by the Board of Orphan Masters according to the same principles that regulate the property of the Free Inhabitants.

Confining our observations at present to the legal capacity of these several Classes of the Population to acquire, retain and transmit real property, we conceive that the circumstances of the Colony are such as to justify the adoption of the most liberal policy in the admission of Persons to the rights of Burghership who either by their capital or by their labour might assist in bringing forward the natural resources of the Colony and who might be disposed to avail themselves of the great advantages of its situation and climate.

We are not aware of any positive refusals having been given to the admission of British Subjects to reside in the Colony or of any abrupt deprivation of the permission to which we have already alluded. We shall hereafter have to consider these permissions as measures of Police, but viewing them at present in their connection with the System we have recommended we think that they are calculated to repel rather than to encourage a disposition to permanent residence, and to lessen the value of those rights by which the investment of

capital and the possession of real property ought ever to be accompanied.

Adverting to the regulations by which the acquirement of those rights by foreigners is limited in the proclamation of 1817, we would wish to observe that it appears to have been the intention of the Batavian Commissioner to have proposed the term of three years residence in the Colony with certificate of good conduct, as constituting a claim to the rights of free Burghership. In as far as the right of acquiring real property is concerned we should be much disposed to prefer that term to the longer one that is declared in the proclamation of 2 May 1817 more especially as it might operate as an Inducement to the relations of Persons now settled in the Colony to transfer their capital to it. We should also recommend that a reduction of the Stamp duty upon letters of Burghership should be made in favor of the poorer Classes of Applicants, as the present amount of 250 rixdollars or £18 15 0 bears too heavily upon the profits of agricultural industry.

The exclusion of the Free Blacks and Malays from the right of acquiring property has partly arisen from an aversion to their religious creed and partly from the spirit of jealousy and discouragement with which the Dutch East India Company regarded the efforts of any of these Individuals that might tend to withdraw them from a state of servile dependence. If the first of these feelings arose from serious and conscientious objections to the propagation of the Mahommedan faith it has met with great disappointment, for the number of the Coloured Inhabitants professing that faith has continued to increase in spite of their exclusion from the rights and privileges of Burghers. We cannot undertake to say that a participation in those rights will have a tendency to diminish their numbers, or to affect the principles of their religious creed, but we think that the right of acquiring real property will furnish them with inducements to apply the fruits of their industry to more substantial objects than the pursuit of frivolous amusements or the gratification of the luxurious habits in which they are at present too much disposed to indulge.

By the 28th clause of an Ordinance of the Lieutenant-Governor in Council dated 19 June 1826 and passed for the purpose of improving the condition of the Slaves in this Colony,



they are declared to be competent to purchase, acquire and alienate lands and other property, to receive interest of money deposited in the Savings Bank and to dispose of their property by will, which is to be executed by the Orphan Chamber without charge, and in case of intestacy their property is to be distributed by that Board according to the laws of the Colony.

The right of appearing in the Courts of Justice is not denied to any of the Classes of Persons whom we have described, and to the Slaves it has been secured by virtue of a clause in the Ordinance beforementioned whereby the Registrar of Slaves and the Persons who act in the several districts as Assistants to that Officer are entitled to receive notice of all actions and prosecutions in which Slaves may be charged with any offence punishable by death, banishment or transportation or in which any question may arise as to the right of any Slave to freedom or to property ; they are also required to attend the trial and hearing of every such action and suit, and to act in the manner most conducive to the benefit and advantage of the Slaves. The principle of this enactment is much to be commended, but we cannot think that the protection which it is intended to give to the Slaves will be efficient unless the duties of the Guardian are confided to Persons qualified by professional knowledge and experience to appear in the Courts of Justice. It is for this purpose that in the Estimates annexed to our report upon the Finances of the Colony we have provided for the Salaries of a Guardian or Protector of Slaves in each Province, which may form an inducement to competent Persons to undertake the unpopular and important task of asserting and attending to their Interests.

Although we have not had an opportunity of explaining the circumstances that affect the condition of the Hottentots, and have only briefly adverted to their legal capacity to acquire and retain property, yet we cannot omit the opportunity which the present consideration suggests of strongly recommending that the duties of the " Guardian of Slaves " should be equally extended to the protection of the Hottentots, and more especially in asserting their claims to property, and in defending their personal rights whenever they are the subject of discussion in the Courts of Justice.

It has been asserted in the Colony that the Slaves and

Hottentots under the existing law and practice are entitled to receive gratuitously that species of professional assistance which may be obtained by all Persons whose poverty prevents them from paying for it, and who can produce reasonable grounds of claim. From our inquiries and observations of this practice we find that when applications of this kind are made by the free Inhabitants as well as by the Slaves and Free Blacks to the Court of Justice, and after a summary investigation has taken place of the inability of the former to incur expense, an Advocate as Curator ad litem, and a Notary are appointed and admitted to appear on their behalf "Pro Deo" with relief from the expense of Court fees or Stamps. Upon referring to the Registry of causes of this description, which has been separately kept in the Office of the Secretary to the Court of Justice since the year 1820, we find that the average number in each year has amounted to seventeen, that very few have been decided, and that the slowness of their progress denotes the indifference with which they are pursued. The Advocates and Notaries to whom these causes are assigned are bound to give their assistance gratuitously, but as the cases "Pro Deo" most frequently fall into the hands of the Practitioners who are least experienced, and as the claims of Slaves to freedom and the vindication of the rights and property of Hottentots meet with very strong and interested opposition, it is not to be expected that such assistance can be efficient. Exclusive of the powerful advantages which wealth acquires over poverty in the tribunals of every Country it is hardly necessary to state that the interest which the Inhabitants of this Colony have unfortunately derived from the continuance of the servile condition is powerfully opposed to any effort that is made to abridge or redeem it.

The Guardian of Slaves in each Province should be especially required to accompany the Judges on the Circuits, to appear on behalf of Hottentots and Slaves in all prosecutions instituted against them and to conduct all claims for their freedom or property. From the circumstances affecting the condition of these two classes of the population in the Districts and which we shall hereafter explain, we feel convinced that the appointment of Guardians will furnish the only practicable means of securing to them the benefits of legal protection to their property and persons.

## CIVIL ARREST.

We have had the honor to suggest in a former part of our report, that an exemption from civil process should be granted to the Governor, Lieutenant Governor and the Judges of the Courts in the Western and Eastern Provinces. By a provision of the Statutes of Netherland India which was introduced into this Colony in the year 1715, Persons holding civil or military employments under the Government, and the Company's Servants were privileged from arrest in their persons or Salaries. This exemption is still preserved in the Colony, and a permission termed "*Venia Agendi*" is now required to enable any Individual to bring actions against the higher classes of functionaries. It is granted by the Court of Justice at its discretion and upon the report of a Commissioned Member upon the nature of the Action and the circumstances under which it is brought.

With a view to discourage vexatious actions against persons of rank in the Civil Service, Stamps of a larger amount than usual are required on the application and reply of the Court for a "*Venia Agendi*."

With the exception of the persons whom we have before enumerated we cannot advise that any privileged exemption from civil process or imprisonment should in future be allowed, which is not equally enjoyed by the other classes of the Community. The compulsory process of the Courts has been regulated in this Colony by the Statutes of India, and it has been held that a person who is domiciled or possesses fixed property in it is not liable to that process which is termed "arrest" in his person or goods unless a strong suspicion exists of intended flight, or of the concealment and alienation of his property, in fraud of his Creditors. Strangers however with the exception of those who came in Embassies or public Commissions were subject to the judicial process, which is said to be given for the purpose of creating jurisdiction in the Court before whom the Stranger may be brought. It was formerly executed in this Colony by causing a notice of the claim signed by an Advocate to be served by a Messenger of the Court of Justice upon the Stranger, who although liable to arrest and imprisonment in case of flight or refusal to appear was required to attend the Court at its earliest Session, in which the person

arresting proceeded to justify the arrest and the party arrested to answer and make his defence. It appears that this practice which has been described by the President of the Court as a "loose one" had led to inconvenience and abuse, and with a view to restrain it certain resolutions of the Court were passed and approved by the Governor in the month of May 1823, by which it was provided that no arrest either of person or goods should in future be effected by Judicial Messengers except upon the Fiat of the President of the Court of Justice, the Senior Member, or one of the Commissioned Members charged with civil proceedings, after a summary representation of the cause of action, but not upon oath, made by the arresting party or his Agents. A discretionary power was given of refusing or granting the arrest, or of only requiring security if the Commissioner failed in effecting an amicable adjustment, and in the latter event the arresting party is bound to justify his arrest at the next sitting of the Court. This alteration although right in principle has given occasion to delay in practice, as some difficulty has been found in obtaining the "fiats" of the Chief Justice and Members of the Court as speedily as the nature of the circumstances has frequently required, and the Members have also felt reluctance to decide summarily upon Statements unsupported by affidavits or to expose one of the Parties to much personal inconvenience and prejudice.

With a view to remedy these evils we should recommend that no person should be liable to this or any other species of civil arrest in his person or property at the commencement of a suit except upon an affidavit of the party who applies for it stating his belief that the Debtor is about to abscond or to remove himself or his goods from the jurisdiction of the Court and also that he is indebted in a Sum exceeding £15 Sterling or that the action which he is about to commence has been caused by some previous Personal injury and wrong. In all or any of these cases, and upon such an affidavit being made before a Magistrate authorized to take it, or before any of the Judges of the Court, or the Commissioner of the Court of Requests in the Western Province or the Judge of the Court or the Master in Equity in the Eastern Province, an order or writ of arrest should be issued to the Sheriff or his Officers and by virtue of which the party may either be compelled to



appear and answer the demand instanter or in default thereof may be imprisoned.

There are certain debts consisting of accounts of Sales effected by the Commissaries of Vendue in Cape Town and by the Vendue Masters in the Districts, and demands of quitrent and taxes, which after obtaining the fiat of a Commissioner of the Court of Justice in Cape Town and of the Landdrosts in the Districts are entitled to the process of "*parata executio*."

By the Dutch Law the process of Civil imprisonment is allowed upon Sentences of ejectment from the occupation of land and houses or upon those in which the Defendant is ordered to do or execute some particular act (*Præstatio Facti*). In the year 1823 an ineffectual attempt appears to have been made to abridge the expense and delay of recovering possession of lands and premises by certain resolutions that were framed by the Court of Justice and approved by the Governor, but it was found necessary to issue others in the same year by which the mode of proceeding on a sentence of ejectment has been in some degree simplified but is still encumbered with forms which are dilatory and seldom efficient.

In case of disobedience of sentences wherein the specific performance of any act or thing is required, the disobedient party is liable to imprisonment for 14 days, at the expiration of which he is released, and the Person at whose instance the order has been issued is entitled to pray that the interest which he has in the compliance may be estimated and converted into money. When the amount of interest or damage is adjusted he is entitled to a Sentence of payment which becomes executable in the manner before described.

As we are not aware of any advantage that results from the exercise of this power of imprisonment for the mere disobedience of the order, we conceive that it may be proper to dispense with it altogether, and to limit the remedy in these cases to the estimate of the interest and damages sustained.

By a proclamation of Governor Sir John Cradock in February 1813 it was enacted that no person could be confined in prison for any debt, fine, penalty (or contempt of Court), not exceeding the Sum of 20 rixdollars (£1 10 0 Sterling) for a longer period than one month, or in case the debt should not exceed 50 rixdollars (£3 15 0 Sterling) for a longer period than Six calendar



months. We recommend that this regulation should be continued and that the pecuniary amount by which the imprisonment is limited should be raised to four pounds in the first case and to ten pounds in the second, but that in other cases the power of imprisonment for debts of larger amount should be continued.

Notwithstanding the customary and formal observance of the Sabbath day by the most numerous classes of the Community, it was not without Surprise that we found the very unusual practice to prevail of making civil arrests on that day. We recommend that the privilege which is conceded in England and most other Countries in this respect should be immediately adopted, excepting only those cases of suspected flight or removal to which we have before alluded.

#### MESNE PROCESS.

The execution of Mesne process in civil actions is assigned to the Judicial Messengers in each District, who reside at the Chief Towns or Drostdies, and that of final process to an officer called the "Sequestrator." The wide dispersion of the Inhabitants in the different districts, the distance from Cape Town and the repetition of the forms of Summons have rendered the execution of the mesne process both tedious and expensive, but we think that the operation of some of these causes would have been less felt if the ordinary Sittings of the Court of Justice had been more frequent than they are according to the present practice by which the number of Juridical days upon which the Court sits for the despatch of the current civil business does not exceed twenty throughout the year, although it admits special exceptions to be made on account of business that may be urgent or important.

With a view to remedy these evils a power should be given by charter to the three Judges of the Western and the Judge of the Eastern Province to frame rules and regulations for the practice of their respective Courts, and we should recommend that the Summonses should be reduced to two, and that a process of attachment should issue on failure of the Defendant to appear and plead in a certain number of days after service of the second summons.

We also recommend that a similar practice should be observed in the Court of Requests and in the County Courts where the adoption of the dilatory forms of the Court of Justice has been very prejudicial. The principal causes that have tended to weaken the operation of the executive and final Process have arisen from the combination of the power of enforcing it with the administration of Bankrupt and Insolvent Estates. The instructions that were issued to the Sequestrator in the year 1819 were framed under the direction of the President and Members of the Court of Justice and sanctioned by the Governor. They comprised the rules by which the execution of the sentences of the Courts of Justice is enforced, and present a summary view of the System of Bankruptcy and Insolvency, and of the mode prescribed for the administration and liquidation of the property of Debtors. Reserving our observations upon the latter branch of the Sequestrator's duties, we have to state that those of an executive nature and arising in Cape Town and the Cape District are performed by a Clerk in the Sequestrator's Office, while those arising in the other Districts of the Colony are committed to the Agents of the Sequestrator, who are remunerated by a small percentage upon the gross amount of sentences satisfied either by adjustment with the Parties, or by the Sale of Property levied on. By the progressive improvement that has taken place in the communications between Cape Town and the remote Districts, the remittance of these sums which was formerly annual is now made at the expiration of Six months.

After the lapse of the terms allowed for appealing against the sentences of the respective Courts to those of higher jurisdiction, copies are given to the parties, but previous to enforcing compliance, except in cases of ejection and others which are entitled to the benefit of the process of "*parata executio*" the Plaintiff must serve the Defendant with a Summons and renewal, and in case of further refusal the sentence may be transmitted to the Sequestrator's Office, where it is registered, and the Chief Clerk again Summons the Defendant through a Messenger to pay the Debt or to give Security for paying it in 14 days. On failure of appearance the Summons is repeated, and if the Security (which is generally personal) is not given, or the term expires without any Satisfaction of the Debt, the

Chief Clerk proceeds to the residence of the Debtor, where he makes an inventory of the goods, and if Security is not given for their appearance on the day of sale, they are removed to a place of Security which has lately been provided for the reception of goods taken in execution and for preventing the disappointments which frequently occurred when the goods were left in the possession of the Debtor. Slaves are placed either in the custody of the Messenger or when greater security is required in the Town Prison. We have observed that all the difficulties which impede this part of the process in Cape Town are multiplied in the Country, and that the exercise of a certain degree of discretionary power in the Officer who is entrusted with the executive branch of the Department and which has necessarily been extended to the Sequestrator's Agents in the Country, the greater part of whom until lately have consisted of the Landdrosts, has not always been exempt from the influence of partiality, and even of less excusable motives, while the dispersed state of all movable property and the facility of concealing and transferring it together with the length of time and difficulty that occur in realizing property when sold in the Districts, has led to heavy disappointments in commercial transactions and in some cases to the ruin of Individuals. We cannot here omit the mention of a circumstance that has in some degree aggravated these evils by diminishing the amount of the proceeds of the property of Debtors. A duty of 5 per cent is levied on the sales of landed as well as movable property and  $2\frac{1}{2}$  per cent on all payments made to the Sequestrator on account of Insolvent or other Estates and of property taken in execution. Fees also are charged for conducting the business of the execution in its several stages, which may be estimated at one per cent more, and the whole of these are collected and accounted for to the Government who appoints the Officers and pays the Salaries and contingent expenses of the Establishment, except those which are incurred for travelling. These salaries have not borne a due proportion to the duties performed in the Sequestrator's Office or to the responsibility of the Head of the Department.

The business of the principal Office of the Sequestrator is conducted at Cape Town, and the sentences of the Courts are there registered and the inventories of property filed. The Sales are conducted by a Clerk and Messenger attached to the

Department, and the proceeds are accounted for and collected and afterwards deposited in the Discount Bank.

A weekly account of receipts and payments is exhibited to the Court of Justice, to whom the Sequestrator is allowed to apply in cases of doubt for direction and advice.

The Officers of the Department consist of the Sequestrator, who is appointed by the Governor, a Cashier who acts as assistant Sequestrator, a Head Clerk, a Book Keeper, three Ordinary Clerks and 2 Messengers.

By a return that we have obtained from the Office of the number of Sentences that have been entered for execution between the 1st January 1819 and 30th April 1825, we find that they have amounted to 10,119 including those issued by the Burgher Senate for Town Taxes, and that out of this number 7,705 Sentences have been liquidated or otherwise dismissed from the office and that 560 have been secured.

Whether from the advanced age of the Person who was appointed in 1819 to the Office of Sequestrator, or from a want of punctuality and attention to his orders by the Agents in the Country, the transactions of the Department have been involved in great confusion and arrears, and after the appointment of a new Sequestrator in the year 1825 it was deemed necessary to afford him additional assistance for the liquidation of all estates that had been brought under the cognizance of his Predecessor. Very little advantage has hitherto arisen from this arrangement beyond that of affording more time to the Sequestrator for attention to the Current Business which in consequence of the increasing embarrassments of the Inhabitants is not likely to undergo any diminution, and it is for the purpose of affording greater promptness and facility in the execution of it, commensurate with that which will be derived from the establishment of Separate Courts of Judicature in the two provinces, that we propose the appointment of a Sheriff for each who may be invested with nearly the same portion of executive authority which is exercised by the Persons holding that office in England. It is one that is not unknown to the Dutch Law, for it appears that when justice was administered in the manorial Courts of Holland the Sheriff or Bailiff of the Manor convened and opened them with certain forms, summoned the Aldermen to give their attendance, promulgated the sentences of the Courts



and executed them by selling the goods of the parties condemned, upon the proceeds of which it also appears that he levied a poundage.

The Persons who may be appointed to the situation of Sheriffs in the two Provinces of the Colony should be required to give Security to the amount of not less than £2,000 for the Western Province and £1,000 for the Eastern Province. They may be charged with the execution of the process from the Superior Courts, which according to the present practice is in the first instance directed by the Advocates of the Parties to the Messengers of each District. Through these persons the Sheriff may make returns to Summonses issued out of the Higher and Inferior Courts, and carry into execution all sentences and warrants for the seizure and apprehension of persons and property.

The Sheriffs of the two Provinces should have the appointment of their Subordinate Officers in the Counties, and should be held responsible for the due performance of their duties. These Officers should also be required to give their attendance in the County Courts, and to execute in like manner the orders and warrants that may be issued from thence. Although several of the regulations contained in the Instructions to the Sequestrator will be found to be applicable to the office of the Sheriff in the performance of his executive duties, yet it will be expedient that a power should be given to the Judges of the two Provinces to frame orders and regulations for the guidance of the Sheriff and his officers, and we think that several of the forms of Process which have been adopted in the island of Ceylon may be advantageously introduced into the judicial practice of this Colony, allowance being made for the distance of the County Courts from the seats of Judicature. The costs that are allowed to be charged by the Sequestrator for the performance of the duties of his office, and which will devolve upon the Sheriffs and their Officers, arise principally from Clerical labour and correspondence. The amount of these charges added to the percentages before mentioned forms a heavy deduction from the proceeds of property taken in execution, and appears to us to exceed the degree of trouble and detail that are necessary to secure regularity in the very simple duty of collecting debts and making levy and sale of goods.



By the abolition of the unnecessary form of summons and renovation upon sentences of the Courts, both before and after they are placed in the hands of the Sequestrator for execution, the opportunities which those forms now furnish to the Debtor of abstracting property will be taken away, and the saving in the costs of the Messenger's travelling expenses, which in the Country Districts are very heavy, together with the Stamp duties to which those Forms are subject will create some reduction in the amount of the general disbursements. We do not conceive that the imposition of the charges of 5 or 2½ per cent on the proceeds of the property of Debtors, or the fees which are assigned by the Tariff to the Sequestrator and his officers could have been originally considered as a legitimate Source of Revenue to the Government, and we are much disposed to think that the apparent increase which has taken place in this branch has in some measure arisen from the practice that was introduced in the year 1807 of paying fixed salaries to the officers employed in the different departments, and requiring the fees to be accounted for to Government. While the business and consequently the profits of the Sequestrator's Department have increased, the Salaries of some of the Officers who are entrusted with great responsibility have not corresponded to the importance of such Trusts nor have the qualifications of the Persons whose duty it has been to regulate the distribution of Bankrupt and Insolvent Estates enabled them to discriminate with accuracy the special grounds of preference which the Civil Law attributes to particular debts. The Salary that we have assigned in our report on the Finances of the Colony to the Persons who may be appointed to the situation of Sheriff in each Province will provide a sufficient remuneration for the duties they will be called upon to perform, and we think that a duty of 2½ per cent upon the gross proceeds of all property levied on and sold in satisfaction of debts, and upon all payments made to the Sheriffs and their Officers will compensate to the Government for the charge incurred on account of their salaries.

We should also recommend that the duty which is charged upon the transfer of real property when sold in satisfaction of debts or Sentences of the Court of Justice should cease, except in cases of distribution amongst Heirs.

The charges of the Sequestrator to which we have before

adverted have fallen with an unjust severity upon the lower classes of the Community when sued for small debts, and in no cases more conspicuously than in those where the only trouble that was occasioned to the Officers of the Department arose from discovering the persons of the Debtors. In a case of this description that has recently been brought to our notice the Sequestrator's charges made in conformity to the tariff under which he acts, upon a sentence for arrears of taxes amounting to the sum of four shillings and sixpence Sterling, came to eleven shillings and three pence. In addition to these costs which are paid to the Government, Stamps are used upon the deeds of Security and the receipt of money, the vendue roll of movable property and upon the conditions of Sale of Immovable property. With the exception of the stamps charged upon liquidations or the receipt of balances of Sequestration accounts (which we recommend to be abolished) the amount of these is not considerable and can only be felt in proceedings that are instituted for the recovery of small demands. We therefore propose that no stamps should be required upon proceedings where a less sum is demanded than £3 15 0 Sterling or 50 rixdollars, and that the reduction of one half which was lately made in stamps upon judicial proceedings under £7 10 0 or rixdollars 100 should be applied to proceedings under £22 10 0 or rixdollars 300.

In addition to the duty of  $2\frac{1}{2}$  per cent upon sales made by the Sheriff and upon payments made to him we cannot recommend that any of the fees enumerated in the present Schedule should be charged, except those of three shillings per diem on taking inventories and the same sum for attendance at sales, which we think should be received by the Sheriff, together with an allowance for travelling expenses when on duty beyond the limits of the Town.

The remuneration that we have proposed for the Messengers of the Different Counties, who are in future to act under the direction of the Sheriff as his Officers, will consist of an increase of their fixed Salaries from the present rate of £22 10 0 to £30 per annum, their travelling expenses in the Country, and the percentage which is now allowed to the Sequestrator's Agents of  $2\frac{1}{2}$  upon the proceeds of immovable property, and one per cent upon that of movable property, upon the liquidation of sentences and upon the collection of debts. In some of the

Counties the amount of this remuneration and the extent of the duties to be performed will be more considerable than in others, but we recommend that the gross proceeds of all sales as well as of the collections of debts should be remitted to the Sheriffs of each Province, who should make the deductions in favor of their Officers and pay over the balance to the Creditor.

The account of the Revenue at present derived from the Sequestrator's office is submitted to the Colonial Auditor in a quarterly abstract certified by the Sequestrator, exhibiting the names of the parties in each cause, the amount of fees charged and the percentage that is due to Government. No reference however is made to the proceedings themselves or to any documents in the Sequestrator's Office in support of the abstract, nor is any oath required of its correctness. As the documents are neither intricate nor voluminous, and as the number of items of charge payable to the Government will be considerably reduced, we recommend that a reference to the Sentences, and to the accounts of Sales deposited in the Sheriff's Office should be made by the Auditor General before he certifies the amount of duty.

#### FEES AND COSTS OF COURT.

Before we conclude our observations upon the proceedings and jurisdiction of the Courts of Justice we will briefly allude to the subject of Costs respecting which complaints have not unfrequently been laid before us.

In all the Courts of the Colony certain fees are charged according to a Schedule that was framed by the President and Members of the Court of Justice in the year 1820 and approved by the Acting Governor Sir Rufane Donkin. It includes the fees that are allowed for the attendance of the Members of the Court in special Cases, or where they leave the place of their residence, those of the Secretaries of the Courts, and of the Advocates, Proctors and Messengers.

The fees allowed on the proceedings in the Court of Justice form part of the general Revenue of the Colony. They are collected by one of the Clerks in the office of the "Secretary to the Court of Justice" and after being taxed by a Commissioned Member of the Court are paid over to the Receiver General.

Those incurred in proceedings before the Court of Circuit are remitted by the Secretary who attends it to the Collecting Clerk in Cape Town, but they do not undergo taxation. The fees that are payable on proceedings held before the Courts of Landdrost and Heemraden are received by the Secretaries, except in the Cape District where they form part of the District Revenue.

The fees allowed to the Advocates for professional business and for disbursements made in payment of Court fees and stamps, (and for which they are allowed to charge interest at 5 per cent) are also regulated by tariff. These accounts are subject to taxation before a Commissioned Member of the Court of Justice who is specially appointed to this duty and assisted by one of the Clerks of the Secretary to the Court of Justice. Objections to the bills of costs are heard before him, and his decision upon them in proceedings where the sum in demand exceeds Rds. 50 or £3 15 0 is subject to revision before the full Court. The costs thus taxed and settled are then entitled to preferential payment out of the proceeds of all property levied on, and likewise of Bankrupt and insolvent estates.

The fees allowed to Advocates are fixed by the Schedule. To an English Practitioner they will appear extremely low, as the fee allowed for a consultation concluded within an hour amounts only to one rixdollar and a half or 2s. 3d. Sterling, and for an opinion contained in one sheet or less, 4s. 6d., for attendance in Court if the suit be closed in one day 2s. 3d. sterling. We have observed however that other charges analogous to each other and of the same trifling amount are allowed to swell the accounts of the Advocates, for instance, to the fee of consultation which in complicated cases is allowed to reach nine shillings Sterling, is added another charge termed "Studying the Law per hour" and amounting to 4s. 6d., so that the accumulation of such items which we consider to be rather derogatory to the rank and character of Advocates, more especially when added to the fees for Proctor's business, constitute an aggregate of expense that bears heavily on the Suitors.

In referring to a bill of costs incurred in an important case in the Court of Appeal we find that the disbursements consisting



chiefly of the stamps and expenses of copies amounted to Rds. 513 or £38 9 6 Sterling, and the fees of the Advocate to Rds. 826, or £61 19 0 Sterling. In another which was a litigated case before the Court of Justice and in which evidence was taken, the fees of the Advocate acting also in the capacity of Proctor amounted to the sum of Rds. 389 2sk. 0 or £29 3 6, from which a deduction of 100 rixdollars was made in taxation, and the amount of disbursements for stamps and copies of documents amounted to Rds. 168 or £12 12s. Although we have found that in several instances considerable deductions are made from the Advocate's bills, yet in the charges for Proctor's business larger fees seem to be allowed than are taken by the Proctors whose profits continue to be limited by a Schedule promulgated as far back as 1809. We think that this distinction between the charges of Advocates when acting as Proctors and those of the latter should cease.

Complaints of the costs of proceedings in the Vice Admiralty Court have not unfrequently been made to us, although the business transacted there since the peace has been confined to the condemnation of an inconsiderable number of vessels for the illicit importation of Slaves, and latterly to causes arising upon maritime contracts, property in Ships and Seamen's Wages. The Schedule of fees in prize causes is similar to that which has been adopted in other Colonial Possessions of His Majesty, and that of fees received in the Instance Court has been reduced by the Judge to half the amount of those allowed in the Admiralty Court in London, the Judge relinquishing his share. The fees assigned to the Registrar of the Court appear to be higher in proportion than those allowed to the other Officers of the Court, and we think that the charges made by the Proctors should be liable to further reduction in causes instituted on behalf of Seamen for their wages.

In the Petty Debt Court the amount of the Costs in small actions is very oppressive, arising in a great measure from the absurd practice of repeating sunmonses for appearance to a Defendant three times, before a condemnation by default can be obtained. In a case where the sum demanded amounted to Rds. 51, the costs of stamps, recovery and execution amounted to Rds. 61 4 sks., and in another where the action was Rds. 23 the costs amounted to Rds. 25. These and other charges by



the Proctors or Agents are all subject to taxation by the Secretary and Registrar of each of the inferior Courts.

The fees allowed to the Secretaries of the District Courts have hitherto been received by them with the exception of the Cape District and the Petty Debt Court where they amount to a considerable sum in the course of the year. We have had the honor to recommend that the persons appointed to act as Clerks of the Peace in the several Districts should also act as Secretaries in the civil proceedings, and we think that the fees which are now allowed by the tariff of 1820 may constitute a proper remuneration for their trouble. The duties of the Clerk of the Peace for Cape Town and the Cape County will be found to require so large a share of attention from the Persons appointed to those situations that we think it will be necessary to appoint a Secretary for the Court of Requests, which as we have had the honor to propose will include the civil actions arising within the Cape County, and we estimate that the amount of the fees received by this Officer upon the reduced Scale we have proposed will constitute a sufficient remuneration to him.

When the judicial system is revised it will be found practicable to bring a large portion of the business that is now transacted before the Full Court, consisting of applications for further time to plead, presentation of documents &c. before one of the Judges in Chambers, by which both time and expense will be saved, and it will then be advisable we think to consolidate many of the Advocate's charges, expunge some of them, and increase the amounts of those which are assigned to real attendances and effective Services. Many of the disbursements charged in their bills appear to be incurred for copies and attestations of documents, the first of which are made by the Clerks in the Office of the Secretary and Registrar of the Court of Justice, and the second by the Secretary himself. The preparation of copies of documents filed as proofs may be rightly confined to the Office in which they are deposited, but we should recommend that copies of petitions and declarations in civil actions, that are filed in the office of the Secretary, should be prepared by the parties themselves and served upon their opponents in the cause, a course that will be much less expensive and more expeditious.

In reverting to the Court fees which are now allowed by the Tariff to the Judges, Secretaries and Messengers in Civil Causes, and which are received on account of the Government, we think that those which are allowed to the Judges should be entirely abolished. Those for the Secretaries of the Court are few in number and not high in amount, and apply to acts of attestation, making entries or expunging causes from the lists, which we think are not improperly the subjects of charge, and may be continued and accounted for to the Government.

The fees allowed in the Tariff to the Messengers of the Court are so essentially connected with the despatch of judicial business that we think they should be received by the Messengers and constitute a portion of that remuneration to which we have before alluded in treating of the duties of Sheriff.

The costs incurred in the Court of Justice are received as we have already stated by one of the Clerks, but we have observed that this account is both imperfect in itself and subject to very little check either by the Auditor General or the Chief Justice, upon whose certificate it is received into the Treasury. We should recommend therefore that a bill of costs should be made out, certified by the Clerk and attached to each proceeding or cause, and that when a copy of any memorial or document is required that the charge for the same should be briefly endorsed at the time of delivery. The proceedings in this state should be exhibited to the Commissioner or in future to the Master in Equity to whom we propose that the duty of taxing all bills of costs should be assigned with a power of summoning the parties or their Agents to attend him.

In treating of the subject of costs of judicial proceedings we cannot omit the mention of those which are incurred for interpretation, a duty that we think has not hitherto been so carefully performed as its importance deserves, but which will be greatly increased by the introduction of the English language into the Courts of Justice.

In several of the Courts of the Districts it has been usual for the Landdrosts to act as Interpreters even in criminal trials, and upon similar occasions the interpretation has been effected by the gratuitous assistance of the Heemraden or Secretaries. With a view to secure a greater degree of accuracy of translation and interpretation in the Court of Justice an English Assistant

to the Secretary was appointed in 1814 with a salary of Rds. 3,000 per annum, and he has made translations of Sentences and Summonses in cases wherein English parties were condemned, and in criminal trials of importance has interpreted the interrogatories addressed by the Court or Advocates to English Witnesses. In ordinary cases before one or two Commissioners of the Court and which are of frequent occurrence, the duty has been very imperfectly performed and inadequately remunerated.

In reference to these circumstances we beg leave to recommend that the qualifications of persons who may in future be licensed to act as sworn Interpreters should be more accurately ascertained than they have hitherto been, and that as the change of language in the Courts of Justice has been an act of the Government the expense of interpreting the declarations of the Witnesses should be defrayed out of the Public funds and should not be included in the costs of each suit. The appointment of the Persons selected for this particular duty should be left to the Judge of the Supreme Court in the Western Province and to the Judge of the Court of the Eastern Province, who should also administer the oaths to the Court Interpreters and cause them to be registered in the book of admissions of officers in the respective Courts.

#### BANKRUPT AND INSOLVENT ESTATES.

In concluding our account of the Judicial System we beg leave to offer some remarks upon the manner in which the Estates of Bankrupt and Insolvent Persons are administered, the rules by which the inheritance and transfer of real property are governed, and the establishment of the Orphan Chamber.

The operation of the existing system of Bankruptcy and Insolvency is not limited to the Mercantile Classes of the Community alone but extends to all persons who are unable to satisfy two or more Sentences obtained against them, or where it appears to the Sequestrator that the property of the Debtor is insufficient for that purpose.

In cases however of compulsory Sequestration a right is reserved to the Debtor to oppose it by presenting a memorial to the Court of Justice, who upon the Report of the Sequestrator

and the Statements before them decide whether the Sequestration is to continue or to be superseded. If it be continued it becomes the duty of the Sequestrator to pursue the instructions that were framed by the President and Members of the Court of Justice and sanctioned by the Governor in the year 1819.

It is competent also to any person who finds himself unable to satisfy his creditors to request the Sequestrator to take possession of his property and effects, or by application to the Court of Justice he may be allowed to make an assignment of them for the benefit of his Creditors termed "*Cessio Bonorum*."

The Sequestrator is also the assignee of such property as may be delivered over by the Orphan Chamber, or repudiated by Heirs and Executors as Insolvent. In all or any of these cases he causes inventories to be made of the property of the Insolvent, signed by him with an offer to verify them on oath if required, and if left in an exposed state he places some person in possession of it. He is allowed with leave of the Court of Justice to convert into money the perishable property and to collect outstanding debts.

The effect of these first measures is to stay all Judicial proceedings against the Insolvent, and a discretion is given to the Sequestrator to institute such actions as may be favorable to the estate after taking legal advice. With a view to terminate such proceedings with as little expense as possible the Sequestrator is permitted to bring them before a Sitting Commissioner of the Court of Justice from whose decision upon cases that are above 300 rixdollars an appeal is allowed to the full Court. At this stage of the proceedings the Insolvent is allowed to make proposals of arrangement with his Creditors, accompanying them with a balance sheet of his Debts and Credits under his signature and an offer to confirm it on oath. Although a discretion is reserved to the Sequestrator of refusing to submit this proposal to the Creditors in cases where there is no expectation that the proceeds of the estate will be sufficient to satisfy more than the Creditors of Privilege and Preference, and subject to appeal to the Court of Justice, yet he is required to use all endeavours where he approves of the proposal to induce the Creditors to accept it.

Where the claims of the Concurrent Creditors who have not acceded to the proposal amount to one twentieth part of the



whole Debts, it is to be considered as annulled, and where the claims of the preferent and concurrent creditors who have dissented from the proposal do not together amount to the sum required to annul it, it is to stand good and the Debtor is again to be placed in the possession of his Property. If the proposal of the Debtor should be annulled, the Sequestrator proceeds to advertise the property for sale, and to admonish all Creditors to present their Claims within a certain term under pain of forfeiting their rights. He also recovers the debts due to the estate.

When he has ascertained the amount of the proceeds of the property, including the debts and the amount of the claims, the Sequestrator proceeds to frame a scheme of distribution in which he declares the amount, and rank in which each claim is to be paid, and afterwards the sum, if any, that is divisible pro rata amongst the concurrent Creditors or those of equal right. Notice of this scheme of distribution is given to the Creditors, who are allowed a term of 14 days to object to it, and to institute proceedings against the Sequestrator before the Court of Justice. In case of no objection being made within the term, the scheme of distribution is presented to the Court of Justice and approved, and if the term of ten days after such approval should elapse without any appeal being noted against it a dividend is made by the Sequestrator, but in the event of an appeal the Creditors who receive payment are required to give a security "de restituendo."

With a view to expedite the Settlement of Insolvent Estates, but subject to the same precaution the Sequestrator is authorized to pay any debt that is notoriously of a preferent nature without waiting for the settlement of a scheme of distribution, and also to transfer in payment to the Creditors instead of cash such actions or claims as are of certain value, but which could not be immediately recovered.

The proceeds of Estates that do not exceed the sum of 400 rixdollars may be divided amongst the Creditors after they have been duly summoned and their claims heard, without any form of process or the allowance of any appeal.

When the Sentence of Preference and Concurrence has acquired the force of a definitive judgment the Debtor is allowed to present a memorial to the Court of Justice praying that in



consideration of the Integrity of his Conduct he may be rehabilitated. By way of proof he must annex to his Memorial a declaration signed by a majority of his Creditors in Amount, that his conduct has been meritorious. These documents are referred to a Commissioned Member of the Court who summons the Creditors who have refused to sign the declaration, hears their objections and reports upon them to the Court of Justice, who finally decide upon the rehabilitation of the Debtor. The effect of this act is to acquit the Insolvent Debtor from all the claims of his Creditors except those adjudged to them in the Sentence of Preference and Concurrence and to restore his capacity of trading. Respecting this last however it may be observed that an Insolvent even previous to rehabilitation is permitted to engage in a new Trade unconnected with his former one if he can obtain advances from his Friends, and he would also be allowed to bring actions in respect of such trade.

As one of the most important duties of the Sequestrator in cases of Bankruptcy and Insolvency consists of settling the rank of preferent and concurrent debts, we will briefly mention the principal rules by which these questions are decided. They are laid down in the Section of the Statutes of Netherland India which specially treat of this subject, but derive their origin from those principles of the Roman and Dutch Law by which a preference is given to particular creditors in consideration of the nature of their claims, and a tacit lien and security upon the property of their Debtors. Of these the first in rank are creditors for expenses incurred for the administration and liquidation of property, funeral charges including those of medical attendance, the claims of Government or municipal bodies for taxes, expenses incurred for the repairs and improvement of property and payable out of the proceeds of that property, house or ground rent which creates a lien upon furniture found in the house, or the growing crops, debts due to Government by the administrators of its revenues, debts due to the Commissaries of Vendues who during six months in Cape Town and 12 months in the Country Districts possess a lien upon goods sold during those periods and found "in natura," in the possession of the Purchaser, and who have also a preference for the Balance over all general mortgages and private special mortgages, claims of Minors upon the property of

their Insolvent Guardians, and of religious corporations and Hospitals upon the property of their administrators, claims of Masters of Ships for freight on the Cargo, of Merchants on Ships for reimbursement of the value of their goods sold by the Masters for necessary repairs, of Agents upon goods consigned to them for advances or credit obtained, of Married women for property secured to them by marriage settlements, or acquired during marriage, and in which the community of goods has been excluded, and finally the claims of Legatees and Heirs to property entailed upon them.

To all these claims a right of tacit hypothecature is assigned by Law upon the property of Debtors, and they are entitled to preference over conventional Mortgages which are either special and apply to some particular property or general and extend over all the property of the Debtor present and future. Of the former description is the security called "Kustings Brief" which consists of a special mortgage of some immovable property for the whole or part of the purchase money remaining unpaid, and which has a preference over all other mortgages of anterior as well as of posterior date. Other mortgages are ranked in the scale of preference according to the date of registry in the office of the Colonial Secretary to which we shall afterwards advert, and it appears that a special mortgage of anterior date would be preferred to a legal or tacit mortgage, which is posterior.

The settlement of these several claims upon an Insolvent estate is required by the Instructions to be effected in the space of six months from the date of the insolvency, but it has been found impracticable to conform to that regulation, and it is not unusual to find that more than two or three years elapse before any adjustment or what is called a "liquidation" can be effected. The arrear that had taken place in this branch of the Sequestrator's Department was so considerable that it was found necessary very soon after the resignation of the Individual who had filled that office since the year 1819 to provide an Assistant for his Successor, who was specially charged with the duty of forwarding and closing the accounts of Sequestrations. From a recent return of the Joint Sequestrator we find that out of 69 different cases of Bankruptcy that were transferred to him in November 1825 8 have been liquidated, 22 are in a

state of forwardness, 6 are in progress but involved in litigation, and 33 remain to be liquidated. In the mean time it is with difficulty that the Sequestrator can prevent the accumulation of the cases of Bankruptcy that have occurred in his own Office since his appointment in January 1825. We find that up to a late period in the current year (1826) 135 cases of Insolvency have occurred, of which only 29 have been liquidated. A greater degree of regularity has been observed in keeping the books of the office since the appointment of the present Sequestrator, but we are convinced that no effectual remedy will be afforded for the increase of arrears until the business of insolvency is entirely separated from the executive duties of the Sheriff. From the representation that we have given of the System of Insolvency it will be seen that a very extensive discretion is vested in the Sequestrator, and which in practice we have observed is but imperfectly controlled by the Court of Justice. The authority of that Court is indeed resorted to by the Sequestrator at its weekly sittings, and it is then competent to any Member of the Court to examine the state of the receipts and disbursements, and to make any inquiry connected with the administration of the funds that may suggest itself. Upon these occasions the Sequestrator exhibits the Cash Book, the Journal, and a Bank book in which are entered the drafts upon the Discount Bank and the deposits made in it, and at the end of every quarter a balance is struck.

All sums received by the Sequestrator are required to be paid into the Discount Bank, but the drafts are drawn and signed by the Cashier alone, who gives security on entering upon his office, but the Sequestrator does not consider himself as responsible for the funds placed in the Bank.

By the 92nd article of his instructions the Sequestrator and the Officers of his Department are prohibited from appropriating any monies under their administration to the use of themselves or their families whether by way of loan or disbursement even upon the best security "under pain of infamy and immediate dismissal from office." We are not aware of any instance in which this salutary regulation has been violated, at the same time we feel it our duty to state that very large balances accumulate in the Discount Bank on account of the proceeds of Sales held by the Sequestrator, and that although

he is authorized by his Instructions with a view to avoid unnecessary delay to discharge those claims which appear to him to be preferential, taking security for reimbursement if any claim of higher preference should be made, yet it appears that the general nature of the debts with which property in this Colony is encumbered rarely admits of a dividend being made in favor of any particular class of Creditors, until the rank of every claim has been definitively fixed in the Sentence of preference and concurrence. The Sequestrator at present is considered to be subject to the authority of the Government, and at his appointment to the office which bears the designation of "Sequestrator to the Government" he swears that he will strictly follow and obey all the orders of His Excellency the Governor as a faithful Servant of Government and that he will scrupulously observe and cause to be observed by those in his Department the instructions prescribed for the same with such alterations and amendments as the Governor for the time being may think proper to make. We have already had occasion to allude to the orders that have been given by the different Governors to this Officer both in the execution of his duties and for the temporary appropriation of the pecuniary Deposits, and without asserting that this exercise of authority has been prejudicial in the instance in which it has occurred, we think that the control over the Officer hereafter to be employed either as Master in Equity and charged with the collection and payment of the proceeds of Insolvent and Bankrupt Estates, or as Sheriff and charged with the executive duties of the Sequestrator will with more propriety belong to the Supreme Court. In considering the system to which these regulations apply, it will be obvious, that it is one, which affords great indulgence to a Debtor, and we have reason to believe, that in the general administration of this branch of the Law, a degree of lenity and forbearance has been shown, that is not consistent with the just rights of Creditors. This observation applies more particularly to the delay that occurs in taking possession of the effects of Insolvent Debtors, and to a want of activity in the pursuit of them. We also conceive that a principal defect in the system consists in not making an immediate appeal to the Creditors by calling them together and affording them opportunities of ascertaining the state of their Debtor's affairs



and of examining into his previous conduct. The duty of collecting, recovering and depositing the property of Insolvent Debtors belongs to the Sequestrator, and we conceive that it may be more safely and advantageously continued in the hands of the officer appointed to succeed him than transferred to assignees chosen by the Creditors. We have had the honor to propose that the Master in Equity in each Province should be charged with this duty and that all applications made by him on behalf of the Creditors or those made by the Insolvent for directions or relief should be addressed to the judge of the Supreme Court and be subject to his decisions.

The Master in Equity might receive proof of debts due by Insolvent Estates, summon parties to appear and declare touching the affairs and conduct of the Insolvent, and examine the latter himself and in case of his refusing to answer, make application to the Court for his imprisonment.

We should also recommend that the offence committed by an Insolvent of not making a discovery of his estate and effects or not delivering up his goods and books or of removing or embezzling his estate to the value of ten pounds sterling should be declared to be punishable with transportation for fourteen years.

The Master in Equity should also be empowered to appear and act as Assignee of the Creditors in all lawsuits in which the pecuniary interests of the Insolvent or his estate are concerned, to take possession of his property, books, and accounts, and to take the decision of the Creditors upon the expediency of instituting and defending actions. In the same capacity he should receive and have the custody of the proceeds of the estates of Insolvents, and of all money recovered, depositing them in the Colonial Bank, and should be bound to exhibit an account of the Property once in every month to the Supreme Court and at reasonable times to the Creditors. After the effects have been collected it will be the duty of the Master in Equity to proceed to make a distribution of them, and with reference to the existing rules we should not recommend any change to be made in those by which the preference or other rights of Mortgagees are settled under the existing law of Registry, but as it is expedient to diminish as much as possible the number of tacit mortgages or latent encumbrances by



which the just expectations of other creditors may be defeated, we should recommend that the lien or privilege which is created in favor of Creditors for the repair and improvement of property should be abolished, and that of married women for the portions brought in marriage and secured by marriage contract unless the deed or contract should have been registered within one month from its date, or if executed out of the Colony within one month from the date of the arrival of the parties within it.

We should also recommend that all Commissions, acts and Instruments relating to Estates of Bankrupts and Insolvents should be exempt from Stamp duties, and that the sales of Property should be relieved from the Auction duty.

#### LAWS OF PROPERTY.

Having recommended in a former part of this section, that the laws of transfer and inheritance of property that have prevailed in the Colony should not undergo any other alteration than such as might tend to enlarge the parental discretion in the disposal of it, we will briefly advert to the principal enactments by which those rights are regulated.

The extensive interest that is conceded by the customary law of matrimonial engagements termed Community of Goods and the reciprocal confidence that it tends to create between the Husband and Wife have very generally superseded the necessity of resorting to antenuptial contracts or those which resemble English marriage-settlements. The effect of this law is to create a species of conjugal partnership, the interest in and profits of which as well as the losses are equally divided, until the partnership is dissolved by the death of one of the parties, a privilege being conceded to the wife to stipulate for her free choice of half the share of the Profit and loss, or to take the property that she brought to the marriage.

In the absence of any such stipulation the Survivor takes one moiety of the property and the other devolves in equal portions to the Children, but the Wife may dispose by will of her moiety during the life time of her Husband.

In case of a second marriage a Widow or Widower having children by the first cannot bequeath more than one child's

portion to the second consort, and the property of both is divided equally amongst the children of the first and second marriages.

The testamentary disposition of property by Parents is limited in the case of having four children or less to two thirds and in case of five children or more to one half of the portion to which they would have been entitled as Heirs at Law, these portions being considered as the legitimate inheritance of which they cannot be deprived, except for reasons assigned by their Parents and duly established by proof before a Court as legal grounds of disinheritation. A further limitation also exists in favor of Parents to the amount of one third part of the Share to which they would have been entitled by the law of Succession. Brothers and Sisters are entitled to the same portion as Heirs by will in those cases only where a disposition has been made in favor of persons whose character is infamous or declared to be so by a judicial Sentence. With the exception of these portions from which deductions are allowed of advances made to Children in the Testator's life time, the Law affords to every one the free disposal of his property.

Testators are likewise permitted to charge their property with an entailed inheritance called "Fidei Commis" prohibiting the alienation of it out of their family or generation, or encumbering it with any special charge or trust. Such bequests of property are not uncommon amongst the more opulent classes of the Community who may be desirous of perpetuating the possession of the whole or a part of their wealth amongst Descendants of their own name and family. Although no positive period has been affixed by law to the duration of such entails it is the opinion of the best Institutional Writers that except under special directions to the contrary they terminate with the fourth generation.

The right of creating an entail of Fidei Commis does not divest or deprive the Children of their right to the legitimate portion of the inheritance of their Parents, nor to that which is called the "Trebellianic" provided that both together do not exceed one half of the property. The deduction of this last portion is however allowed to be made once by the first Heir in Entail and if he should not have availed himself of it, the right passes to the next and so on to the Heirs in succession.

To none of them is allowed the right of alienating or encumbering an entailed estate beyond the life interest that each has in it, but exceptions are allowed to be made under the orders of the Courts in cases where no positive injunction to the contrary has been expressed by the Testator, and where the circumstances of the Family raise a presumption that such must have been his wish.

Under the authority of the Court likewise permission may be granted to make a settlement of Dowry conformable to the circumstances of the Family and to raise money by way of mortgage for the improvement of the Estate and which thus becomes a charge upon it in the hands of the next Heir in entail.

Although the strictness of entails may thus be modified, yet it seems that an act of legislative authority is necessary to remove an encumbrance altogether from the property charged with it.

The General Law of inheritance which takes place in the absence of any will or marriage settlement was regulated by a Political Ordinance bearing date the 1st April 1580 explained in a later one of the States General dated 13 May 1594 and in a charter granted to the Dutch East India Company respecting succession by Intestacy in the year 1661. The principal disposition of the Ordinance enacted that the Children and other Descendants in an hereditary line should succeed their Parents "ad infinitum" and in failure thereof the Parents as the Universal Heirs of their Children, but that in the event of the death of one of them the Survivor should inherit one moiety and the Brothers and Sisters of the deceased (whether of the full or half blood) the other moiety of the property and their Children per stirpes or representation.

The next in succession are the Collateral Heirs and their children by representation, to the exclusion of those who are only related on the side of the Father, or the Mother. After these come half Brothers and Sisters and then the nearest of Kin.

It will be observed that the general tendency of these rules of Inheritance is to equalize the distributive portions of the inheritable property of the Colonists, and to multiply the occasions of its distribution and transfer. We think that this

circumstance has in some degree retarded the accumulation of capital and has also tended to confine the applications of it to one branch of Industry.

The operation of the law upon the property of English Settlers and others being natural born subjects of His Majesty has been taken away by a proclamation issued by Governor Lord Charles Somerset with the sanction of His Majesty's Government, and they enjoy the same rights of devising their property real and personal as they would be entitled to exercise under the laws and customs of England, but in case they marry in the Colony without making an antenuptial contract or marriage settlement or without making a will conjointly with their wives the distribution of the property both of the husband and wife is administered and divided according to the Colonial Law or in other words the marriage would be taken to have been celebrated according to the Law of Community of Goods, and the property of the Husband and Wife would be considered to be possessed in equal shares by them.

We think that the substantial part of this enactment may be advantageously applied to the Inhabitants of the Colony at large, and that it will be expedient to withdraw every restriction which the present law places upon testamentary dispositions of real and personal property in favor of Children, Parents, and Brothers and Sisters. The legal obligation of Parents to support and educate their children until the age of 25, which may be enforced by the Courts of Justice and extends to Parents and Brothers and Sisters even of the half blood, will constitute we think a sufficient security to them against the effects of caprice in early life, and we do not conceive that the effects of that independence of Parental Authority, with which an indefeasible claim of the Child to a certain portion of the heritable estate is attended, will be found to be productive of any benefit that would justify so large a restriction upon the disposing power of the Parent. To the distribution of property which the Law makes in cases of succession by intestacy we have nothing to object.

The rules that are prescribed for giving validity to wills are drawn from the Civil Law and in practice have been attended with some inconvenience in a Country where the wide dispersion of the Inhabitants and their distance from the



towns and villages impede their recourse to professional assistance, as well as the collection of the number of witnesses of competent age who are required to attest the execution of their last bequests. The technical expressions required to give legal effect to wills are neither numerous nor obscure, and they may be delivered in two ways, first by a declaration made in the presence of a notary and two witnesses read over to the Testator, signed and acknowledged by him to contain his last wishes and intentions. Secondly, by a writing executed by the Testator and delivered by him to a Notary in the presence of two witnesses accompanied with a declaration that the paper contains his last and full intentions. The will is then enclosed in an envelope properly stamped, sealed and superscribed by the Notary in the presence of two Witnesses, a certificate and entry of which are made in the notarial book.

Last wills may be also executed in the presence of 7 witnesses without a Notary.

With reference to the state of the Community and to the observations that we have already had the honor to make upon the habitual confidence felt by the Dutch Inhabitants in the ancient method of attesting and preserving their wills, we see no objection to allow those methods to continue, and we think that it will much contribute to their comfort and security, to be allowed to make their wills in the Dutch language if they should be so disposed.

For the benefit of the Community at large but more especially of the English portion of it, we recommend that all wills executed in the presence of three witnesses above the age of 21 years and not interested in the dispositions should be declared to be good and valid in law for the purposes contained in them. By a proclamation of Governor Lord Charles Somerset dated 4 April 1823 all wills were ordered to be registered in the Orphan Chamber under a penalty of fifty rixdollars. The observance of this law is so important to the general interests of the Community that with a view to secure it more effectually than by the means of pecuniary penalties, we should beg leave to suggest the application of the self operating principle, by which no disposition of a will can be allowed or deemed to pass any interest in real or personal property until it has been duly registered in the Orphan Chamber. It will also be neces-

sary that the declarations of three witnesses if alive and in the Colony to the execution of all wills that are not made before a Notary should be sworn before a Judge of the County in which the wills have been executed and should be annexed and transmitted in original to the Orphan Chamber previous to registry.

#### REGISTRY OF DEEDS.

We now proceed to the mention of an Establishment in which the custody of titles and the transfers of real property as well as the registry of all encumbrances and securities upon it are effected. Connected with this establishment is the payment of a duty on transfers called the "Heerenrecht" or Lord's right, amounting to 4 per cent. upon the purchase money of freehold lands and those held on perpetual quit-rent, and of  $2\frac{1}{2}$  per cent. upon the "Opstals" or buildings that have been constructed upon loan places, and which become payable in four months from the day on which the bargain or agreement of sale has taken place if the land be situated in Cape Town, the Cape District or Simon's Town, and in six months if situated within the other Districts.

The Office of "Registry of Deeds and Transfers" forms a branch of the Department of the Chief Secretary to Government, and is conducted in two separate apartments under the same roof as the other offices of Government in Cape Town. The business is managed by two Clerks attached to the Office of the Chief Secretary, and one of whom receives applications from persons desirous of transferring their property or of recording and registering mortgages upon it together with such proof as they can afford of their title, which generally consists of a copy of the original grant or diagram, or the next preceding transfer, to which reference is always made, as well as to a book called the "Debt Register" alphabetically kept, by which the claims of Creditors upon the property are ascertained, and their consent to the transfer required.

The same form is observed upon every change of ownership that the property undergoes whether from donation, inheritance or bequest.

The Conveyances are of a very short and simple kind, and the circumstances attending them are found to vary so slightly

from each other that they are easily comprised in the short space that is left in the printed forms kept in the Office and which are filled up and prepared by the Clerk. No professional acquaintance with the forms or principles of law having been required in the Persons who have filled these situations, they have been permitted in cases of doubt to refer to the President of the Court of Justice and the Fiscal for their opinions. When the papers are prepared they are executed and acknowledged by the Parties, or Persons specially empowered by them, in the presence of two Commissioned Members of the Court of Justice, and the first Clerk or Assistant in the Chief Secretary's Office, who give their attendance on Fridays in every week for this special purpose. It is necessary that the deeds should be accompanied with a certificate from the Collector of Tithes and Transfer duties, that the latter have been paid, and which is not given until affidavits of the Seller and Purchaser have been filed and sworn either before the Collector or before the Landdrost of the District, declaring that the sum mentioned in the deed is the true and real amount of the purchase money.

From the nature of the laws of inheritance that we have described the transfers of real property are frequent, but sales can only be effected by means of long credit secured by mortgages which bear an interest of six per cent. The preference accorded to these as well as all other securities being regulated by the usual rule of priority of date in the registration, or in other words of the public notice thus afforded of the existence of the debt, much importance has consequently been attached to their due and regular conservation in the Office. During the administration of the Earl of Macartney, great improvement was made in this respect, but as it was found in the year 1805 that the debt registers required revision, a Committee was appointed for that purpose by General Janssens, and proceeded in their work until the recapture of the Colony by the British Forces in 1806.

The Debt registers contain an account opened in the name of each person who passes a bond in which are inserted the date of the registration, the description of the property hypothecated, the names of the Securities, and the amount of the debt expressed in Guilders. One of the defects that had been observed to have crept into this branch of the Office in the

year 1806, considered as a record of the state of money transactions between the Inhabitants appears yet to exist, for although the volumes composing the registry of debts afford the means of ascertaining all the useful particulars that we have just described, together with an index of reference, yet no precautions exist or have yet been taken to ascertain the nature, period and amount of payments. In cases of transfer of real property, the existing mortgages are generally taken over by the purchasers and the old ones cancelled, but it seems that no obligation exists by which the holder of a registered mortgage is made to record in the office the partial payments or reductions that may have been made in its amount.

The deeds both of transfers and mortgages commence in the year 1652, and are kept in separate volumes, and since the 1st January 1823 in the English language. Anterior to the year 1806 the index to these volumes is defective, but subsequently to that period they have been arranged in a better form and appended to each volume. The forms that are made use of in the transfer and mortgage of real property are very short and simple and rarely exceed one page.

The latter contain a provision of three months' notice of redemption and in most cases the personal obligation of two Individuals as Collateral Securities.

The Mortgages that are executed in favor of the Board of Orphan Masters and the Lombard Bank may be acknowledged by the Parties in the presence of the Members of those establishments, but are nevertheless required to be registered in the office of the Chief Secretary.

Some inconvenience is experienced by parties residing at a distance on account of the appropriation of only one day in the week by the Commissioned Members of the Court of Justice for the purpose of attesting the execution of deeds, and also by the length of time and risk incurred in the transmission of powers of Attorney to Individuals to pass the deeds of transfer and mortgage upon property situated in the District.

The Title-deeds to landed property are deposited in a separate room attached to the Office of the Secretary to Government, and the Custody and arrangement of them are committed to one of the Clerks. In consequence of the loose manner in which the older titles had formerly been kept, and with a



view to prevent further damage by frequent reference to them, copies were made of a considerable number amounting to 1650, when the progress of the work was suspended in consequence of the uncertainty that prevailed in the Boundaries of the new District of Albany.

Copies of the Diagrams of each Estate are made by the Clerk who is in charge of all documents connected with the grants of land in the Office of the Chief Secretary, which together with the diagrams of subdivisions of Estates that are transferred, are entered in the books.

The Clerk receives a fee of four rixdollars (6s.) for making a copy of the diagram of an estate transferred, and one rixdollar for that of any portion or subdivision of it.

The fees for the registration of deeds amount to Rds. 6 4 sks. or 9s. 9d. Sterling on transfers and Mortgage bonds, and to one rixdollar (or 1s. 6d. Sterling) on a notarial bond. These fees are accounted for monthly to the Receiver General. A fee of Rd. 1 1 sk. (or 1s. 8½d. Sterling) is allowed to the Clerk for a certificate or extract from the Debt Register.

From these observations the general object and utility of the Establishment itself may be collected, and the alterations that we have to propose are suggested only with a view to render those purposes more extensive, and are founded upon the same principle of expediency and convenience which induced us to recommend to your Lordship the division of the Colony into two Provinces. In conformity to this view of the Subject we have the honor to propose the establishment of an Office of Registry in each Province, to detach them altogether from the office of the Secretaries to Government, and to assign the duties of receiving the acknowledgment of deeds, and of recording and preserving them to the Person who executes the Office of Registrar of Slaves.

It has been stated to us that the practice of taking the acknowledgments in the presence of two Commissioned Members of the Court of Justice and of the Assistant Secretary to Government, gives a certain degree of solemnity to the act and of confidence to the Parties. We are aware that the practice is derived from that of Holland, and that a deed acknowledged before the Aldermen of the Towns who were also the Provincial Judges in that State, was regarded as the highest Security

that the Law could afford. This argument for continuing the office in its present state might perhaps have some weight if the importance attached to the presence of the Personages before mentioned involved any advantage that might arise from their professional knowledge or character. The rules of law by which the acknowledgment of deeds is regulated are so few and simple, and the documents to which they apply so contracted that we cannot think that the interference of a Judge can be necessary upon such occasions. On the other hand we think that the first preparation of the deeds would be confided with more propriety to a Person of competent age and acquirements than to a very young Clerk deriving information from a casual and irregular application to a Judge. The duty performed by the two Commissioned Members of the Court of Justice, of merely listening to the recital of the deeds by the Clerk, and a very slight examination of the documents themselves, is one that may be safely entrusted to the Registrar, and we do not think that the mere presence of the Assistant Secretary to Government whose attention to other business is not suspended by the acknowledgment of deeds can have the slightest influence in giving solemnity to that act. Independent of the interruption which the performance of this duty occasions to the Judges, we could not recommend that the dignity of their office should be deemed requisite to sanction the execution of such unimportant duties. The interruption to them will thus be avoided as well as the delay and disappointment that arise from confining the acknowledgment of deeds to one day in the week by opening the Offices of the Registrars of Deeds during certain hours on every regular day of their attendance. As far as regards the collection of duty on transfers of real property, the Registrar should be prohibited from taking any acknowledgment of such an act except upon the exhibition of a certificate of the receipt of the duty from the Treasurer or Vice Treasurer of the two Provinces, corresponding in terms to that which is now obtained from the Collector of Tithes and Transfer Duties, and the former should be empowered to administer the oath that is required by the proclamation of the 2nd January 1818 relative to the date of the bargain or agreement of sale, and the period in which the transfer should be made in the respective Offices of Registry

in the two Provinces should be altered from six to four months in consequence of the greater facility that will be given for effecting it.

#### ORPHAN CHAMBER.

The Establishment called the "Orphan Chamber" appears to have originated in the early necessity of providing for the collection and administration of the property of Persons who might die intestate, leaving Heirs either absent or under age and incapable of taking that duty upon them. As it frequently occurred also that the property of Persons who had died on their passage to and from Europe was found on board the Ships of the Dutch East India Company that touched at the Cape it became an object with the Government to secure it for the benefit of the rightful Heirs. The Jurisdiction of the Orphan Chamber was therefore extended to property found in this situation on board Ships anchored in the harbours of the Colony.

The earliest records of this Institution bear date in the year 1673 and between that period and the year 1700 it had begun to assume all the attributes and character of a Public Department. The administration was committed to the care of four Persons who continued for some time to exercise their functions under the immediate eye and control of the Government. At the commencement of the year 1691 a President and three Members were appointed to constitute the Board which then received the designation of the "Worshipful Board of Orphan Masters" of whom two were Members of the Court of Justice and two of the Burgher Senate. In a few years afterwards a more permanent constitution was given to the Board, which since that period and until the year 1803 consisted of a President chosen from the civil servants of the East India Company or of the Government, of a Vice President selected from the Burghers or Free Inhabitants and of two Members from the former Class and two from the civil Servants.

The period of service of these Officers was limited at first to two years, at the expiration of which they were succeeded by individuals of their own nomination, but selected by the Government. In some instances the President was continued

in his office for a longer period, and was generally selected from the highest and most respectable Members of the Government. In the year 1767 when the office was filled by the second person in command, who was appointed to the situation of President of the Court of Justice, it was resolved by the Governor and Council that as that Office and the Presidency of the Orphan Chamber could not with propriety be held by the same Person the latter should be conferred upon the Fiscal. It was not until the year 1803 that the appointments of President and Vice President of the Orphan Chamber were declared by the Provisional Instructions of Commissioner De Mist to be permanent, and that the Board was to consist of four Members, whose qualifications were to be described in the future Charter, and of a Secretary. This constitution was adopted by the British Commanders at the Capitulation, but as the distinction between the Services of Government and that of the Dutch East India Company had been abolished in the year 1803, and as the new Charter defining the qualifications was never promulgated, the Members of the Board have since been appointed by the British Governors without reference to any particular principle of Selection, but it is observable that until within the last two years no natural born subject of His Majesty has been appointed to any of the higher offices of the Establishment.

The principal duties of the Board of Orphan Masters consist of the administration and settlement of the Estates of Persons dying intestate within the Colony or on their voyage to it, the Heirs to which are absent or under age, also of the Estates of persons who by their last wills have not specially excluded the Orphan Chamber from interference or have specially called them to it even where the Heirs are of age and domiciled within the Colony ; 2ndly of the Registration of the wills of all Persons dying within the Colony or on their voyage ; 3rdly of receiving and paying to present and absent Claimants the portions or legacies that may be due to them ; 4thly the administration of the property of Minors ; 5thly keeping a general registry of all free Persons who have died in the Colony, and lastly recording the resolutions that are passed from time to time and in which the transactions of the Board are embodied. For more ample information upon these subjects we would beg leave to refer your Lordship to the Treatise which the President and Members



of the Board submitted to us soon after our arrival in the Colony, and in which they have entered very fully into the rise and progress of the Institution and have detailed at great length and we believe with fidelity the nature and extent of its transactions. In the appendix will be found the instructions which from time to time have been issued either by the Government of the States General relative to the distribution of property, and which constitute the law of Inheritance in the Colony, or those by which the administration of the property of Orphans or absentee Heirs has been regulated.

With a view to enable the Orphan Chamber to act with Despatch upon the demise of Individuals the Sextons of the different Parishes are bound under the penalty of deprivation of office to convey the earliest notice of these events to the Secretary of the Board in Cape Town or to the Agents in the Country, who in case of reasonable doubt of the existence of any will proceed to search the papers of deceased persons in presence of some one of their relations or friends, and to seal them as well as all places that may be supposed to contain money or objects of value. After the funeral ceremony has taken place inventories of the property are framed in the presence of a Member of the Board, the Secretary and one or more of the persons who have been in charge of it, and they are signed upon the spot. An approximative value is then given by the Secretary to the whole of the property to enable the Board to determine whether the estate is solvent, and if there is reason to believe that such is not the case, it is transferred to the Sequestrator who proceeds according to the instructions that we have already noticed. In the event of the Estate being found solvent the Board of Orphan Masters proceed in the administration of it and exercise a discretion in the sale of such portions as may be advantageously converted into money. Where property is left in the hands of a surviving parent and in which Minors or absentees claim an interest the Survivor is bound to appear within the term of six weeks before the Board of Orphan Masters and to proceed to the valuation of the Property, giving Security for the amount of the Children's portion in case it is allowed to remain in his or her possession until they attain the age of majority or shall marry.

We have already stated that in case of a second marriage the

Widow or Widower of the first is bound to exhibit to the Orphan Chamber an Inventory of the property possessed in Community, which the Members may require to be confirmed on oath, and in case it should be found that any effects have been artfully concealed, they are to be appropriated solely to the benefit of the minor children.

In default of appointment of Testamentary Guardians the Orphan Chamber assumes those functions and exercises the power of calling upon executors and even relations to produce proper inventories of their property and to require and enforce by action at law the payment of the Minor Children's portions, although they should be possessed in Community with others, together with all property that may devolve upon them by Inheritance or by will. They also cause to be noticed in the Vendue Bills the articles that may have been purchased on account of the Minors by desire of their relations or at the discretion of the Board, and note in whose custody such articles have been left. In the same character of Guardians the Orphan Masters institute actions or appear in defence and on behalf of the Interests of Minors and claim the assistance of the Court of Justice in enforcing their requisitions by pecuniary fine and civil imprisonment. They exercise a superintendence over the education of Minor Children who are considered by law as incapable of managing their own affairs and are not entrusted with them until they attain the age of 25, unless any special reasons should occur either for their earlier establishment in life or by marriage, in either of which cases and with the consent of the Board they must make application to the Governor of the Colony for a "*venia ætatis*." The consent of the Orphan Masters is likewise requisite to legalize any contract made with persons under age or any alienation of their property.

If upon the perusal of a will by the Orphan Masters it is found that they are expressly excluded from the administration of the property in the Colony and that the Executors or Heirs are absent, these circumstances are submitted to the Court of Justice, and a proper person is appointed to act as Executor.

In the earlier periods of the Institution interest was not allowed upon the realized property of Minors and Orphans, and it was not until the year 1779 when the number of Minors under the Guardianship of the Board had increased to 127 that

their portions were placed out at interest on securities which were specially allowed to be executed before two Commissioned Members of the Board. This custom has been observed ever since the year 1779, and interest at six per cent per annum is allowed on all sums above 25 Guilders and carried to the credit of the several estates, but no interest is allowed on the balances in the hands of the Chamber after payment of the expenses of education nor upon legacies or property devolving upon the Minors, nor is interest allowed upon the realized property of absent Heirs during the period of their Minority.

Although it does not appear that there are many estates of Minors, the interest of which exceeds the requisite demands for their education and maintenance, yet in the course of the long period that has elapsed since the establishment of the Orphan Chamber and notwithstanding the occurrence of several circumstances that have tended to shake the confidence of the Public in its administration, a very considerable fund has accumulated from a careful and profitable application of the occasional balances which necessarily come into the hands of the Chamber, and which after being subject to great fluctuation has progressively increased and amounted in the year ending 31st December 1824 to Rds. 446,817 or £33,511 5 6 Sterling.

Amongst the many sources from whence this accumulation has arisen, the interest of property of absent and unknown Heirs until it is claimed must be reckoned as the chief, and to which may be added the unpaid claims of liquidated estates, which previous to the year 1793 were kept in the hands of the Secretary and Cashier of the Board, until payment was demanded, but in consequence of the report of a Commission that was appointed in that year to examine the state of the funds and administration of the Orphan Chamber, separate or subsidiary books have been opened under the title of "unpaid claims on liquidated estates" in which every estate is debited.

As no precise term is appointed for the payment of outstanding demands upon the estates of deceased persons, and as some delay necessarily occurs but more especially in time of War in the discovery of distant relatives and Heirs, the interest accruing from the use of the realized capitals forms another source of accumulation, which has been much promoted

by the general habits of the People, and the opportunities which they afford for the profitable employment of capital. The free disposal of this Fund has also enabled the Orphan Chamber to make advances in cash upon Securities given by purchasers of immovable property called "Kusting Brieven" and which are payable in instalments of one or two years, by which means the claims of Creditors and of Heirs are speedily adjusted and the Orphan Chamber has also the advantage of profitably investing its funds in securities which have a preference over all others.

An account of the progressive state of this Fund is exhibited in the appendix, commencing in the year 1698 and continued to the end of the year 1822. The causes that have influenced the fluctuations and late increase in it are stated at some length in the Treatise. The former seem to have been attributable to occasional defaults of the Secretaries who until the year 1793 were not subject to sufficient control in the administration of very large pecuniary trusts, to the defective manner in which the accounts were kept and to the general embarrassment that prevailed in consequence of the financial difficulties of the Dutch Government in the years 1792 and 1793, the scarcity of any circulating medium, and the depreciated value of the Colonial productions in the home market.

The great increase that has taken place in the "Private Fund" of the Orphan Chamber from the period commencing with the year 1794 when it amounted to Rds. 42,711 and ending with that of 1822 when it had risen to Rds. 390,404 is attributed to the improved system of administration and account which followed the investigation that took place in the year 1793, the progressive increase in the population of the Colony, the relief that was afforded by the establishment of the Lombard Bank in the same year and the general improvement that took place in the circumstances of the Colonists in consequence of an increased expenditure and demand for their produce by the occupation of the Colony by the British Forces in the year 1796.

Although it cannot be doubted that these causes must have influenced the progressive augmentation of the Fund, yet it is reasonable to suppose that the interest arising from the estates of several absent Heirs whose claims must have been suspended



during the war between Great Britain and Holland and which do not appear to have been made public until the year 1816 contributed not a little to that result.

The appropriation of this Fund has from an early period been made subject to the direction of the Local Government either in relief of its temporary exigencies, in the shape of Loans without interest to the Districts in aid of the construction of churches, in assistance afforded to the Grain fund, to an agricultural Board in the year 1805, to the Commission established for the superintendence of Schools, to the Orphan House, and lastly to the construction of the Public Library in Cape Town.

After deducting the sums that have been repaid by the Government on some of these advances, their amount is stated to be 81,700 rixdollars or £6,127 10s. 0*d.* Sterling, a certain portion of which is secured upon the lands of the Districts to which the advances have been made. We shall hereafter offer an opinion upon the nature of this Fund and the light in which it has been viewed by the Orphan Chamber in their Treatise. At present we shall proceed to describe the nature and extent of the property that is placed under their administration. The number of Orphans whose Estates are under the immediate control of the Chamber amounts nearly to one thousand, and the number of Persons who are yet in minority and dispersed in the different districts but under the Guardianship of the Orphan Masters to two thousand.

The estates that were under administration in the beginning of the year 1825 amounted to 232, of which there were 73 that were nearly but not finally liquidated on account of some outstanding claims of a doubtful nature.

The aggregate amount of capital that has been placed on interest by the Orphan Chamber, and secured by mortgages of real property and by the joint and several recognizances of Individuals, and which in most cases are made redeemable on giving three months notice, appeared by the return dated 31st December 1825 to be one million six hundred and forty four thousand four hundred and forty three rixdollars. This does not include a sum of Rds. 55,058 the amount of the Securities called "Kusting Brieven" which do not bear interest until the instalments are due, nor the sum of Rds. 203,222 consisting

of the proceeds of Sales of movable property that had been effected and for which the Secretary and the Agents in the Districts are responsible to the Chamber at the expiration of three months for sales effected in the Town and Cape District, and of six months in the Country ; nor does the above mentioned sum include the amounts of inheritance of property under the administration of the Orphan Chamber allowed to be retained by Heirs of full age or those left in the possession of Parents on behalf of their minor Children upon appraisement and under security to conform to such testamentary directions as may have been given or as the Orphan Chamber may give respecting the application of the interest for their benefit. The aggregate amount of this branch of charge is stated to have been Rds. 751,563 at the end of the year 1825.

Since the year 1800 ninety-five estates have been placed under the administration of the Orphan Chamber by testamentary disposition, a circumstance that may be considered in some degree indicative of the estimation in which the Institution has been held.

In consequence of certain investigations that were made in the years 1793 and 1803 considerable improvement has taken place in the mode of keeping the accounts of the administration of the Orphan Chamber, but the variety of the claims has necessarily led to a separation of accounts and an increase in the number of the Books. The Secretary of the Board acts as Cashier and in that capacity is authorized to make payments and give receipts, which he enters in the Cash book and Day book. At the beginning of every month two Members of the Board proceed to the examination and comparison of these books with the vouchers, and when they are found correct and approved, they are passed to the Bookkeeper who proceeds to charge or credit the accounts of the several estates in the Journal and Ledger. A separate account is opened for each Estate as soon as it falls under the administration of the Chamber and an Alphabetical Register is also kept of the accounts of persons who are indebted to or who have claims upon them, by which means opportunities are afforded of effecting an adjustment of claims and of recovering debts without recourse to law.

To prevent the necessity of carrying on debts and credits

of small amount in the accounts of every year separate books of each are kept with references to the estates to which they belong. Many of these claims are of long standing and small amount.

A separate register is likewise kept of the names of the Persons who have entered into securities for the debts due on mortgage for the purpose of enabling the Orphan Chamber to renew them in case of death or insolvency.

The number of accounts that are open in the books is stated to have exceeded nine thousand in the year 1822, but the number of those on which payments are made and received is not estimated at more than five thousand. The Secretary is charged with the despatch of all the Current business of the Department and prepares every subject and document that requires the consideration of the Board at the ordinary meetings which take place every fortnight or oftener if any business of a special or extraordinary nature should arise. The resolutions of the Board at these meetings are recorded by the Secretary and entered in a separate volume. The Colonial and foreign correspondence is also conducted by him.

Contrary to the ordinary usage of the Colony the sales of property that are effected by the Orphan Chamber are conducted by their own Messenger in the presence of the Secretary and of one or two Members of the Board. The Secretary is made responsible for the amount of the Vendue rolls or the account of sales effected in Cape Town and in the Cape District, the Messenger collecting the amount and being responsible to the Secretary for it. In the other Districts the several Agents conduct the Sales and account in the same manner to the Board. We have already had occasion to notice the preferent right that is accorded to the Vendue Rolls of the Orphan Chamber, and the tacit hypothecation which it possesses over all the property of its administrators. In addition to this, the Secretary and the Messenger enter into securities, the former in the amount of Rds. 8,000 or £600 Sterling and the latter in the sum of Rds. 20,000 to the Secretary. The securities of the Agents in the Districts are not taken in any fixed sum but for a general observance of their Instructions. We find that the responsibilities for the sales effected by all these Individuals are sometimes very extensive and have upon

a recent occasion exposed the Orphan Chamber to some risk although not to eventual loss.

The proceeds of sales effected either by the Secretary or the District Agents are charged against them in the Books of the Orphan Chamber at the expiration of the periods of credit, viz. three months for sales effected in Cape Town and six months in the Country Districts, but any prolongation of those terms which is not expressly authorized by the Board for reasons of manifest benefit to the estates is made upon the personal responsibility of the Secretary and Agents. A proper degree of facility is directed by the regulations and in reality is given to Heirs who have attained their majority to receive their portions by permitting them to become Purchasers at the sales of different articles of Property, for which they are debited in the Books until a final adjustment takes place.

There does not appear to be any determinate period in which the Orphan Chamber is required to liquidate the demands that may be made upon Estates under their charge. Advertisements are regularly inserted in the Colonial Gazette calling upon all claimants to transmit their demands to the Board within a period of six weeks in Town and of six months in the Country under the penalty of deprivation of right, and as the proceeds of the sale of movable property and the first instalment of immovable property become due nearly at the same time and ought to be deposited in the Bank, the liquidation of the estates if not impeded by litigation ought immediately to take place.

We feel ourselves bound to state that no complaint has been made to us of any delay in satisfying demands upon the Orphan Chamber whenever they are presented and properly substantiated, but we have observed that the lists of the names of Persons whose property and Estates have been liquidated by the Chamber have not been made public with the regularity that is required in the instructions.

With the exception of the advertisement inserted in the English and foreign newspapers in the year 1816 to which we have already adverted, and which contained a list of the names of Persons who had died in the Colony and had left property which was administered by the Orphan Chamber, and an invitation to their Heirs to come forward and claim the



amount, we do not find that any public or regular means of communicating these facts have been adopted, nor has that article of the instructions been observed by which regular reports are required to be made by the Chamber every tenth year to the Government, of the amount of property of absent Heirs which remains under their administration. The Colonial Governments however at different periods of the last century have claimed and received various sums derived from that source amounting to Rds. 17,437.

In the year 1794 all the property belonging to unknown foreign Heirs amounting to Rds. 4,906 was directed by the Dutch Government to be transferred to the Colonial Treasury, and upon the capture of the Colony in 1795 this sum together with other public property was paid to the Prize Agents.

The sum of £1,169 5s. 0d. has been paid to foreign Claimants, in consequence of the notice that was inserted in the English newspapers of 1816, and since that period a further sum of £1,618 Sterling has been paid to the same description of Claimants.

Allowing for these payments there appears to have been an increase of Rds. 50,148 or £3,761 2s. 0d. in the amount of "Unclaimed Property of Foreign Heirs" between the years 1816 and 1826, but we do not find that during this interval any further attempt was made by the Orphan Chamber to diffuse through the medium of the public Gazettes a knowledge of the property that has thus come to their hands. When the residence of foreign Heirs is discovered, early intelligence of the death of their relations in the Colony is transmitted to them by the Secretary of the Orphan Chamber, but such communications must necessarily be liable to occasional failure.

The absence of Foreign and Orphan Heirs for sixteen years after all attempts to ascertain their existence and place of abode have been ineffectual, gives a right to the nearest relatives with the sanction of the Orphan Chamber to cause the absent Person to be publicly cited at the place of his last residence, and if it be ascertained that he has died or if the place of his abode cannot be discovered, the Orphan Masters are required to give their consent to the division of the property amongst the nearest Heirs at Law, provided that if satisfactory proof be not given of the absent Heir having died intestate, security shall be given by the Claimants for restoring the amount of

his share in the event of his heir appearing to claim it. The expense of the judicial proceedings requisite in procuring the public citation of an absent Heir has had the effect of deterring the claimants of small properties from having recourse to them. The proof that is required by the Orphan Chamber of the relationship of Foreign Heirs to persons whose property is under their administration consists of such certificates of baptism, marriage and death as would be required to establish those facts in a Court of Justice, and attested and executed according to the laws and customs of the Country in which they have been procured. The execution of powers of attorney to receive property must be attested by some Magistrate or proof must be given that such attestation was not necessary by the Law of the place in which it was executed. Such a document should also qualify the person to whom it is addressed to obtain payment by a sentence of the Court of Justice if necessary.

The Board of Orphan Masters hold themselves in readiness to discharge all demands upon the Chamber as they arise ; and it is one of the duties enjoined by their instructions to calculate at stated periods the funds which they possess or expect, and to prepare for meeting the claims of minors on attaining their Majority. Upon reference also to the state of their accounts and the probable demands upon their funds, they determine upon the expediency of investing their balances in good securities which are said to be convertible into cash at three months notice. We have been furnished with a Return of these securities which chiefly consist of Mortgages upon houses in Cape Town, or upon lands and buildings, the greater proportion of which are situated in Cape Town and the Cape District and in those of Stellenbosch, Swellendam and Worcester. Upon the sale of these lands the mortgages are generally allowed to continue, but of late the Orphan Chamber has deemed it prudent to call in 20 per cent of the amount upon transferring them to new Purchasers. Many of these securities are of remote date, and some of those that are more modern have been taken over by the Orphan Chamber on payment of the sums secured, which are generally expressed in rixdollars, skillings and stivers of Indian valuation. The several amounts of these securities are not considerable and the largest does not exceed Rds. 25,100 or £1,882 10s. 0d.

In consequence of the difficulty that has been experienced in obtaining payment of the interest during the last three years, advances of money by the Orphan Chamber have not been so frequent as formerly, and it appears that the whole of their Funds with the exception of the Balances in the hands of the Secretary and the Agents in the Country Districts are invested in landed securities which at the present moment the Orphan Chamber would find great difficulty in realizing, although the securities may be considered to be eventually good.

We have already observed that the receipt and payment of all monies on account of the Orphan Chamber devolves upon the Secretary, and that in this duty he is controlled by a monthly examination of his cash book which is made by two Members of the Board. Previous to the establishment of the Discount Bank it was required that whenever the Balances in cash in the hands of the Secretary were found to exceed the sum of three thousand rixdollars, the excess should be deposited in a "large chest" which could only be opened in the presence of the Vice President and Members. Since the establishment of the Discount Bank the Funds of the Orphan Chamber have been deposited there in the name of the Secretary, by whom also they are drawn out in cheques signed by himself but expressed to be on account of the Orphan Chamber. The monthly examination by two Members of the Board of the Secretary's Cash Book and his own account of the sums drawn upon the Bank during that period and received there, has hitherto constituted the only check which they exercise over their Funds. The Board have considered, that as the account at the Bank and the vouchers for payments made there, were at all times open to the examination of the Members, the verification of the Balance in the Secretary's name at the Bank by the production of the Bank book at the monthly meetings of the two Commissioned Members was not necessary.

The responsibility of the Members and the Secretary of the Orphan Chamber appears to have been defined in the Instructions that were issued by the Batavian Commissioner (Mr. De Mist) in 1803, in the 70th article of which it is declared that if the Orphan Masters shall have punctually and regularly examined the register book of each estate that is ordered to be kept by the Secretary in the preceding instruction and to

be examined monthly, the Secretary and his Sureties alone shall be responsible for the consequences of his negligence, error or misconduct, and that it is only in cases where the Orphan Masters have neglected to adopt the precautions pointed out in the instructions, or can be found to have been guilty of gross negligence and bad faith that they are declared to be either individually or collectively responsible for the default of their Secretary or for any casual loss or accident that may befall the estates of Minors under their charge.

In treating of this subject the President and Members have manifested an anxiety to prove that the Local Government has not at any period in the history of the institution been held responsible to the public for the default or negligence of the Directors and Officers of the Department, and in corroboration of this argument they refer to a transaction which took place in the year 1737 where the Members of the Board were declared by the Court of Justice to be ultimately responsible for the balance of a considerable sum in which their Secretary had been found deficient, although upon application to the Government they were permitted to derive the means of gradual repayment from the interest of a sum of money that had remained unemployed in the chest of the Orphan Chamber, but under the liability nevertheless to make good all loss or prejudice to the Chamber from any immediate demand that might be made upon them and which they should be unable to satisfy.

In a subsequent part of the Treatise also, the Orphan Chamber manifest the same degree of anxiety in contending that the "Private Fund" which was more properly denominated by Mr. Commissioner De Mist an account of "Profit and Loss" should be reserved for the express purpose of securing the public against the future failure or malversation of the Board or its Servants.

At the early period of the Institution and before interest was allowed upon the property of Minors the expenses of administration were defrayed out of the property of absent Heirs, and very inconsiderable salaries were paid to the Secretary and Messenger. In the year 1763 the Commissioned Members of the Board were allowed by the Local Government to charge two rixdollars per diem for the execution of any extraordinary



duty assigned by the Board and which required them to leave their places of residence, and four skillings for passing and signing public deeds. The aggregate amount of these fees was very inconsiderable but they received some augmentation from the annual interest upon a sum of 24,200 rixdollars forming the residue of an estate which was bequeathed to the use of the Orphan Chamber by a Private Individual "Mr. N. von Dessin" a Native of the Duchy of Mecklenbergh, who had filled the situation of Secretary to the Board for several years, and who dying without Heirs in the Colony made this liberal donation to the establishment in which he had long been an active Servant, and also bequeathed a valuable collection of Books together with some pictures and coins to the Public.

In consequence of the increase that was found to have taken place in the transactions of the Board in the year 1793 they were allowed to charge two and a half per cent. on all monies received in the Office which upon the representation of the Board was limited to the nett Balances of Estates administered by them, to sums received for administration and to the interest accruing thereon. This allowance was made in augmentation of the Salaries paid to the Secretary and other Officers of the Establishment which were defrayed by the Government and afterwards reimbursed from the Private Fund of the Orphan Chamber.

This mode of remuneration was continued until the year 1808 when the determination of His Majesty's Government was signified, that the Civil Servants of the Colony should receive fixed Salaries and that all Fees and Emoluments should be paid into the Treasury. The Orphan Chamber was included in this arrangement, and in pursuance of it the Government continued to receive all the fees and salary antecedently allowed to the Members and Officers for administration, the percentage on sales of property, and the annual interest upon the legacy of Mr. Dessin, and to pay the fixed salaries of the Establishment from the colonial funds until the 31st December 1825, from which date an order was given that the vendue percentage on sales effected by the Orphan Chamber should be paid to the Colonial Treasury, and that the fixed salaries should be defrayed from the fees or if necessary from the Private Fund of the Chamber.

In the year 1809 the salary of the President was fixed at two thousand rixdollars, and was raised in 1814 to four thousand. That of the Vice President has been raised from Rds. 1,000 to Rds. 1,500, those of each of the four Members from Rds. 750 to Rds. 1,000. The salary of the Secretary amounting to Rds. 5,500 has been continued at that rate, and that of the Bookkeeper which was fixed at Rds. 3,000 has been raised to Rds. 4,000.

No alteration has taken place in the salaries of the Subordinate Officers.

The Agents in the Country Districts are allowed to take credit in their accounts for a percentage on the proceeds of property sold by them, which varies according to their distance from Cape Town, those in the remote Districts being allowed  $2\frac{2}{3}$  per cent. on the proceeds of personal property and  $1\frac{1}{3}$  on real property; and those in the nearer Districts  $2\frac{1}{2}$  per cent on personal and  $1\frac{1}{4}$  per cent. on real property. They are also allowed to charge one per cent on the amount of cash or of claims collected, and a quarter per cent. on the appraised value of real and personal property, together with fees on taking inventories and for personal attendance, and allowances for travelling expenses, the charges for which altho' conformable to the Tariff of Government are nevertheless very considerable.

We find that the aggregate amount of the several charges exclusive of the percentage on sales may be estimated at 2 per cent. on the gross proceeds of property which comes under the administration of the Orphan Chamber and which is situated in Cape Town and the Neighbourhood, and 4 per cent. on property situated in the remoter districts. Accounts of the fees and percentage that have been collected in each year from 1809 to 1822 and of the Salaries that have been paid in the same interval are added in the appendix, and it appears that the amount of the former exceeds the latter by the sum of Rds. 26,055 or £1,954 2s. 6d.

Having submitted these observations to your Lordship respecting the nature of the Establishment of the Orphan Chamber and the manner in which it is conducted, we shall proceed to offer some remarks upon the advantages which the Community derives from it and the improvement of which it appears to be susceptible.

The principal object to which the duties of the President and Members is directed consists in providing security and superintendence of the property of Minors whether present or absent, and we think that considering the great variety of objects by which the attention of the Court of Justice is occupied and the insufficient control that is possessed by them over the administration of testamentary Guardians and Executors, or of those persons who in failure of such appointment might be named by the Court to undertake it, this sacred duty may with greater advantage be entrusted to a public Board than to the responsibility of private individuals.

The inconvenience that is felt and the pain that is inflicted by the interference of Strangers in the discharge of the last mournful duties towards deceased relations have contributed to render the institution unpopular amongst the English inhabitants, but when it is recollected that the number of persons who resort to the Colony for temporary purposes such as those of business or health is considerable, and that in case of their decease their property may be exposed to risk by falling into the hands of interested strangers, we think that the protection of an authorized and respectable Body may be considered as affording justification and excuse for the apparent intrusion that it occasions upon the privacy of domestic affliction. We are not led to believe that any improper violation of the respect that is due to it has been committed by those who are specially charged with the duty, nor that any interference has been made by the officers of the Board in cases which did not require its protection. We are at the same time induced to propose that the Orphan Chamber should abstain from interference in the property of persons who have died on their passage to the Colony unless they should be specially requested by the commanders of the ships in which it is conveyed or by the surviving relatives. As far as regards property within the Colony we are justified in observing that as long as the law of community of goods to which we have before alluded is preserved, together with the right of the children of a first marriage to security for the large interest they possess in the property of either of their deceased parents the intervention of the Orphan Chamber on their behalf is undoubtedly a measure of wise precaution and security.

The manner in which the appraisements of property are now made is not satisfactory, for they are generally left to the Field-cornets in the different districts and subject to the revision of the Landdrosts if found necessary. It is for this reason that we have been induced to recommend that sworn appraisers should be appointed with moderate salaries in the different districts and that resort should be made to them for the valuation of estates secured in the Orphan Chamber as well as upon other occasions.

The structure of the Board of Orphan Masters we think will admit of some improvement. In the first place, after expressing our concurrence in the resolution of the Governor and Council of the 16th February 1768, in which the incompatibility of the two offices of President of the Orphan Chamber and President of the Court of Justice is declared, we conceive that the person to whom the first of those situations is confided should possess sufficient leisure from other official duties to admit of his devoting himself exclusively to the superintendence of the current business of the Orphan Chamber. He should possess sufficient acquaintance with the established laws of inheritance to enable him to guide the resolutions of the Board and to prevent the necessity of recurring to legal advice upon ordinary occasions. We find indeed that the present President of the Orphan Chamber has been in the habit of retiring from his eminent situation in the Court of Justice when any questions touching the conduct of the Orphan Chamber or property under its administration have been brought into discussion. Without meaning any disrespect to the remaining members of the Court, we may be permitted to remark that the influence of the President does not necessarily terminate with his presence, and that if it were otherwise, the decisions upon questions which have not received the benefit of his judgment are not viewed or received with the same degree of respect as those in which he had assisted or expressed his concurrence.

After the recapitulation we have made of the duties of the Orphan Masters, it will be unnecessary for us to point out the variety of cases in which as faithful executors or as active collectors of the property and claims due to the heirs of deceased persons, they may require to be controlled and sometimes stimulated by an authority that ought to be placed beyond



the suspicion of an interested feeling. It is also clear that an unsuccessful claimant in the Orphan Chamber ought not to be placed in the situation of having to contend with any influence in the Court of Justice which may be supposed to interfere with an impartial consideration of his claim. It is for these reasons we consider that the two situations of President of the Orphan Chamber and President of the Court of Justice cannot beneficially be held by the same person.

Contemplating by this arrangement that the undivided attention of the President will be devoted to the business of the Orphan Chamber, we think that the appointment of a Vice President may be entirely dispensed with, and that four members, two of whose services will be stipendiary and two honorary, will constitute an efficient Board. Under this arrangement the meetings for the consideration of the current business may be advantageously held once in every week, and the examination of the cash book of the secretary may be made once at least in every fortnight.

From a reference to the past history of the Orphan Chamber and to the observations that we have had the honor to make upon the present mode of conducting the business, it will be seen that a very large share of responsibility, chiefly of a pecuniary nature, devolves upon the secretary. From the stress that is laid by the Orphan Chamber themselves in their treatise upon the advantages derived from the introduction of the chest of deposit, and the limitation that was given at the same period to the amount of cash balances in the hands of their secretary, we were not prepared to find that the control over the funds deposited in the Discount Bank was so imperfect and uncertain as that which it necessarily must be when limited to a casual inspection of the account by any individual member of the Board. In reply to our inquiry upon this point the Board of Orphan Masters state that it has not been customary for the commissioned members on the examination of the cash book of the secretary to compare the same with the drafts drawn by that officer on the Bank and with the receipts that are given there, inasmuch as the account and vouchers were at all times open to the inspection of the members, and that the well founded confidence which they placed in the integrity of their secretary superseded the necessity of a more constant

or rigorous superintendence. By the instructions that were issued for the guidance of the Orphan Chamber this officer is made responsible for and is debited with the proceeds of all sales conducted in Cape Town and its vicinity, the Messenger who acts as auctioneer being responsible to him.

By a subsequent article of the instruction, which was evidently intended to create a check upon the amount of the proceeds in the hands of the secretary, an examination is required to be made by the Board every three months, or oftener if it should be judged necessary, of the Vendue Rolls, and a comparison of the amount with the sums debited to the secretary, and with the Register of Vendue Rolls kept by the auctioneer.

Although it has been stated to us by the bookkeeper that the several estates are credited with the amount of the vendue rolls at the expiration of the usual terms of credit that are allowed, yet we do not find that any examination of the vendue bills is made by the commissioned members of the Board.

Another point of instruction which appears to us to be highly conducive to the objects of the Institution is equally neglected, by which the members of the Board are required to examine the accounts of each estate to ascertain the progress that has been made in their liquidation. It is stated that the members are in the habit of making this examination themselves as occasion may prompt them, but we do not think that such an examination can be so effectual as if it were made one of the objects of the periodical meetings of the members. We find moreover that the accounts of the liquidations of estates are not submitted at the monthly meetings of two commissioned members, but that upon receiving notice from the secretary that such accounts are ready for inspection they meet and examine them previous to their being submitted to the whole Board, by whom they are signed and approved.

From the instances that we have given of the manner in which the instructions are executed, it is obvious that a very large share of responsibility is committed to the secretary, and that the control exercised by the members of the Board is by no means adequate to that which was contemplated by the framers of the instructions in the year 1793 or by those who revised them in 1803. We also find that the security which

the secretary is required to give in the sum of eight thousand rixdollars or £600 sterling was not executed until we had made an official inquiry for the production of it. We are disposed to believe that this relaxation by the Board of a control which had been regarded as important, and which the transactions of no very remote date had proved to be necessary has arisen from the confidence which they have placed (and we believe very justly) in the individual who now fills the office of secretary, and we beg to add that it is not out of any feeling of distrust in his integrity, but from a conviction with which we are impressed of the incompatibility of such an extensive and uncontrolled trust with the nature of the Institution and with the security which the Government has a right to demand, that we are induced to recommend a very punctual observance of the regulations to which we have alluded, and that in future the sales of property in Cape Town and the Cape District should be conducted by a licensed auctioneer, and that a register should be kept of the date of each sale and of the day on which the proceeds become payable. The latter should be deposited in the Discount Bank, on account of the Orphan Chamber, and all drafts upon it should be signed by two members of the Board. To prevent the inconvenience arising from the multiplication of small daily payments by drafts on the Bank, we should recommend that a sum not exceeding two hundred pounds sterling should be issued to the secretary once a fortnight if necessary, the disbursement of which should be checked by an examination of the cash book and vouchers by two members of the Board.

The general administration of the large amount of property which from time to time is received upon the books of the Orphan Chamber is not at present subject to the control of any higher authority than that of the Board themselves, and we do not find that either the Local Government or the Court of Justice has interfered in it except upon the special application or complaint of individuals or upon actions instituted and in which the Orphan Chamber has been called upon to answer and defend.

At the commencement of each year and after the books have been closed, examined, and audited by the president and members of the Board, an abstract account of the property

under administration, including that of foreign and unknown heirs, is signed by them and transmitted to the Colonial Government. This account as well as those of individual estates is made out in the English language and kept in rixdollars and sterling. It exhibits the actual state of the funds of the Orphan Chamber, but it affords no information of the number of estates that have been administered or liquidated or of the progress that is made in that work in the course of each successive year. We think that nothing will tend so much to increase the public confidence in the Orphan Chamber or to dispel the suspicions to which the nature rather than the result of its administration has given rise as the declared liability of the president and members to the superintending authority of the Supreme Court, to which an account should be rendered every six months setting forth the number and value of the estates that have come within their administration in that period, and the amount liquidated, with a report upon the progressive administration.

An annual account of the funds and property should also be transmitted to the Colonial Government together with a list of all foreign heirs or claimants which in furtherance of a measure that has been very properly recommended by the Orphan Chamber in their treatise should be annually published in the English and foreign newspapers.

The regulations upon which the Orphan Chamber now act are contained in a code of provisional instructions which were framed by the Batavian Commissioner De Mist in the year 1803, and which embodied the principal part of those which had been compiled in the year 1793 by a Committee that was appointed at that time to investigate the state of the Department. They will require to be revised in several particulars, and in the mean time we beg leave to call your Lordship's attention to a point which is of some importance to the interests of minor and orphan heirs. By the 56th article of the instructions of 1803 "no interest is allowed on the annual surplus of the estates of orphans that remain after defraying the cost of their maintenance." The facility of investing capital in private securities is undoubtedly great in the Colony, and we do not perceive any substantial reason for exempting the Orphan Chamber from the duty of employing the annual



surplus of the estates of orphans administered by them which would be expected from a private executor or guardian. It will be observed that in conformity to the instructions and notwithstanding the want of public securities in the Colony which would admit of the temporary investment of capital and be convertible into money at all seasons and at a short notice, the Orphan Chamber is bound to pay interest at 6 per cent. upon all property and sums of money belonging to minors administered by them and the amount of which exceeds twenty-five guilders or 12*s.* 6*d.* sterling.

The gross amount of capital bearing interest at the end of the year 1824 exceeded one million and a half of rixdollars invested in mortgages, each of which is supported by the collateral securities of two individuals. This amount includes the savings of the private fund from whence as well as from property sold we perceive that the Orphan Chamber has derived the means of affording ample accommodation to individuals and of making advances to them on reasonable terms when they could not be obtained elsewhere.

While we are not prepared to say that they have positively deviated from the precautionary instructions by which these advances are required to be regulated, nor we believe have hitherto sustained any other loss than that which has arisen from the depreciated value of the colonial currency, yet we perceive that a degree of favor has been manifested towards an individual member of the Board as well as the members of his family by the acceptance of them both as principal debtors and as securities for others to an extent which does not appear to be consistent with the caution conveyed in the instructions. We should beg leave to propose that in future the registry of securities accepted by the Orphan Chamber, accompanied with a return of the mortgages taken over or executed in their favour should be exhibited every six months to the Judge of the Supreme Court.

Having already enumerated the charges to which the property administered by the Orphan Chamber is subject, we will now observe that with reference to the duties performed as well as in comparison with the customary charges that are allowed to be made by private executors, and which vary in amount but are not less than 5 per cent. upon the total credits

of the estate, the charges allowed by the existing tariff of the Orphan Chamber must be considered as being in most instances moderate. We must however observe that the expenses of office and percentage on administration and sale press very heavily upon estates of small amount, and we beg leave to recommend that in future all estates the proceeds of which are below the sum of five hundred rixdollars should be subject only to the charge of  $2\frac{1}{2}$  per cent and to the auction duty.

We conceive however that the receipt of fees should be subject to a more strict and regular examination than that which has hitherto existed before the accounts of liquidation in which they are entered receive the signature of the members. The charges which are allowed for the preparation and copies of documents in the secretary's office and for attendance, and which are generally paid in cash, are entered in a separate register which is compiled and kept by the chief clerk. Until a very recent period this account was only exhibited to the commissioned members of the Board and signed by them. It is now required to be certified by the head clerk under a pledge of oath.

We have already observed that by a late order of the local government all the salaries, fees, and emoluments of the Orphan Chamber, including the interest upon the residuary estate of Mr. Von Dessin, which since the year 1808 have been paid into the Colonial Treasury, are now with the exception of the percentage on sales allowed to be applied by the Orphan Chamber to the payment of the fixed salaries of the officers of the establishment, and any deficiency in their amount is made good from the private fund.

Quarterly abstract accounts of the receipt of these fees and emoluments were until the period of the late change transmitted to the Colonial Government and afterwards submitted to the colonial auditor. They were signed by the secretary of the Orphan Chamber and sworn to by him at the end of every year previous to the transmission of the annual accounts to England, and the head clerk has stated to us that they were made out by the bookkeeper from the entry in his ledger and compared therewith by the members of the Board.

According to the present regulation, which commenced on the 1st January 1826, the collection of the percentage upon

sales is now checked by the exhibition of the vendue rolls, an alteration suggested by the acting colonial auditor and sanctioned by the Local Government, the continued and exact observance of which we strongly recommend as long as the sales of property administered by the Orphan Chamber are conducted by their own messenger and under the responsibility of their secretary, but which will not be necessary when the sales in Cape Town and the Cape District are transferred to the hands of licensed auctioneers and conducted upon the same terms and subject to the same duty.

The receipts of the other fees and charges which we have noticed being no longer payable into the Colonial Treasury are not subject at present to any other control than that of the Board itself. We submit however that although the public treasury has ceased to derive any immediate advantage from these receipts, yet as any deficiency in them is to be made up from the private fund, it is of importance that their amount should be ascertained and checked with as much accuracy as their multifarious nature will admit. At the same time as the examination of those charges is of a judicial rather than a fiscal nature, we should recommend that those consisting of percentages on administration and of expenses of office should be examined by the Master in Equity every quarter and the amount certified under his hand to the Colonial Auditor.

Since the year 1808 in which the salaries of the officers of this as well as the other Departments was fixed, a sum of 2,026 rixdollars which antecedently had been allowed as an additional remuneration to the officers of the Orphan Chamber out of the private fund has continued to be drawn from thence in half yearly instalments and has been paid into the Treasury. The contingent expences of the Department have also been defrayed from the same source. But since the 1st January 1826 these payments and that of the interest of the legacy of Mr. Dessin have ceased to be subject to the examination of the colonial auditor. We shall state our reasons hereafter for recommending that this control should be resumed.

In again soliciting the attention of your Lordship to the Private Fund of the Orphan Chamber and to the future appropriation of it which we have ventured to propose in our Report upon the Finances of the Colony, we must briefly advert to the

description that has been given of it and the appropriation that has been recommended by the President and Members of the Orphan Chamber in that part of their treatise in which they have submitted their opinions upon the subject. Their observations are chiefly founded upon a principle, the application of which to the fund in question we can by no means admit. They contend that "the property relinquished by private individuals should under all circumstances be considered private property." We trust that from the observations we have had the honor to make upon the sources of the "Private Fund" your Lordship will be enabled to form a correct opinion of its real nature, and although we have ventured to recommend that a more active inquiry should be made and that a more regular and public notice should be given of the property that is relinquished in this colony on the demise of individuals than that which has hitherto prevailed, yet we cannot agree with the Orphan Chamber in thinking that after sufficient time and notice have been given, the property that has been relinquished and to which it may be fairly presumed that no heirs can be found, should be considered "private." We on the contrary recommend that in conformity with the general law of every country such property should belong to the State.

That the Private Fund in the hands of the Orphan Chamber has been viewed in this light by the successive governments we think is plainly proved by the several instances of appropriation which we have noticed and by the regulation which requires a list of unknown and foreign heirs to be submitted to the Colonial Government every tenth year. And we are justified in stating that altho' it may not always be easy to fix with precision to which of the two bodies and to what extent the merit of the several appropriations of the private fund may have belonged, yet we find no instance in which the sanction of the local government was not considered necessary by the Orphan Chamber, or in which a compliance with the recommendation of the former was not yielded, although we admit that on a recent occasion it was marked with a very justifiable degree of reluctance. We have been given to understand by his Majesty's Fiscal that he is not aware of any positive law by which property is assigned on a general want of heirs to the State, but he conceives that the possession of property by it would be justified



by the same general term of prescription that applies to property of which individuals have been in possession bona fide for the space of one third of a century or thirty-three years and four months.

It would be difficult at this period to ascertain the exact proportion of property in the private fund of the Orphan Chamber which is entitled to the protection of this term or to fix the amount of interest that has been derived from this source, from the unpaid claims upon unliquidated estates and from the possession of capital which remaining unappropriated either through the neglect, absence, or incapacity of the parties entitled have been made productive of interest in the hands of the Orphan Chamber. While therefore we recognize the right of the State to the Fund that has been raised from these sources, yet we have not been forgetful of those interests which it is the primary object of the Institution to protect.

In recommending that the annual surplus of the estates of Minors should be placed out at interest for their benefit, that more regular and public notice should be afforded to the foreign relations of persons dying and leaving property in this Colony, that a judicial control should be exercised from time to time over the progressive administration of property by the Orphan Chamber as well as over the receipts and fees charged upon it, and by very earnestly recommending a more strict adherence to the instructions that were framed for the protection of the property administered, we conceive that all practical security will be provided in favor of native and foreign claimants.

In furtherance of a proposal submitted by the president and members of the Local Government we also anticipate the acquiescence of your Lordship in dispensing with a formal but costly proceeding by "Edict" which has been deemed necessary to give effect to the provisions of the 60th article of the instructions of 1803 and to enable heirs who are present to receive the portions of one or more who have been absent for 14 years, out of property administered by the Chamber, upon giving security to restore such portions in case of the future appearance of the absent heirs. In such cases and where the portion or portions do not exceed the sum of Rds. 500 or £37 10s. sterling we should conceive that the security proposed by the Chamber will be sufficient without obliging the parties under such

circumstances to incur the expense of obtaining an Edict, and which we remark is not required by the beforementioned article of the instructions.

We are aware that the regular observance of these measures must have a tendency to diminish the amount of the unappropriated surplus of interest which is alleged by the Board of Orphan Masters to constitute the principal source of the "Private Fund," although it may be more correctly said by the operation of compound interest to have been the cause of its rapid accumulation.

We must in this place take an opportunity of adverting to a special object for which the Board conceive that the private fund ought primarily to be destined, namely as a security to the public and to the government against unavoidable losses to which the property of minor heirs is exposed in spite of all the diligence and caution that may have been evinced by the members of the Board. The designation of "Profit and Loss" which was given to the Private Fund in the article of the instructions of Mr. De Mist seems in some degree to support this view, but we may here take leave to inquire what is the nature of the accidents and losses against which it is considered requisite that this fund should provide, and whether the experience of the last century and the history of the transactions of the Board have afforded any proof of the necessity of making such a provision. The defaults that have taken place appear to have arisen either from placing too great an extent of pecuniary and official confidence in the secretaries, or from not keeping a due control over the proceedings of the country agents. These occurrences therefore partake of the nature of those defaults against which the diligence and attention of the members of the Board might have afforded all necessary protection and from the responsibility of which we do not observe that it is their wish and we cannot think that they should be permitted to withdraw themselves.

The preference which the law accords to the claims of the Orphan Chamber when conflicting with those of other creditors affords an additional guarantee against loss by bankruptcy, and it might be worthy of their consideration to annex a condition of insurance in all their future mortgages secured upon buildings in Cape Town and Stellenbosch. We cannot

find that any instance of loss is stated in the treatise, and the most experienced officer of the Department was not able to recollect "more than two occasions in which losses were incurred by advances of the funds of the Chamber, and those were of small amount."

The president and members have admitted that the accumulation of the private fund ought to have a limit, and that when it reaches the amount of one fourth part of the capital administered it may be considered as completely answering the purposes for which they say that it was intended to be reserved, but for which we have been unable to find any other authority than the article of the instructions that we have before quoted. The Private Fund amounted to 446,817 rixdollars on the 31st December 1824, and at a similar period in the year 1826 it will have approximated very nearly to half a million of rixdollars, while the property for which the Orphan Chamber may be considered responsible did not in the former year exceed two millions and a half of rixdollars. For all purposes of security therefore, if such were required, we conceive that the present amount of the private fund is amply sufficient without the aid of further accumulation.

Although however we differ from the president and members of the Board in the proposed application of the fund, we are not insensible to the advantages which such an administration may derive from a command of a moderate amount of cash to meet unexpected demands or to afford those facilities of liquidation which if not supplied upon reasonable terms may not unfrequently be sought by anxious and expectant heirs or by impatient creditors at ruinous sacrifices of their property. We agree also with the Orphan Chamber in thinking that the contingent expenses of the establishment as well as any deficiency in the receipts of the fees and emoluments to meet the amount of the fixed salaries of the officers should be made good from the private fund.

With a view to meet the first of these objects we conceive that the interest upon the property of foreign heirs, until the lapse of the time of prescription which we have quoted shall have confirmed it as the irrevocable property of the Crown, will not be improperly retained and applied, and that an annual amount of interest should be considered as applicable

from the private fund to the payment of the unfixed contingencies of the department. To this last sum should be added a charge of Rds. 600 or £45 for the space of ten years commencing 1st January 1826, which has been created with the sanction of the Colonial Government for the relief of widows of clergymen of the Reformed church.

Having already noticed the several objects in aid of which the private fund of the Orphan Chamber has been frequently applied, we cannot refrain from expressing our approbation of them, and we have the satisfaction of adding that at a very recent period the sum of Rds. 4,000 or £300 has been advanced for the construction of an English Protestant church at Port Elizabeth in the Eastern Province, and the sum of Rds. 4,000 or £300 for the construction of a Dutch Reformed church in a favourable position in the Cape district at a distance of 30 miles from Cape Town.

The general objects to which the Orphan Chamber have recommended that the surplus interest of the private fund should in future be applied calculating always upon a continued reserve of the capital after it has attained the amount of one fourth part of the property administered by them do not materially differ from those which we have enumerated in the course of these observations and are described by the Board in their treatise to be "such as will promote the improvement of the moral condition of the rising and succeeding generations of the Colony." Giving full credit to the members of the Orphan Chamber for the zeal and promptitude with which they have forwarded these objects by the contributions they have already made, we think that it is inconsistent with such a disposition to press for the repayment of the debt incurred by the Government in the construction of the Public Library and amounting to the sum of Rds. 13,700 or £1,027 10s. sterling. It is admitted by the members of the Board that the construction of a public library in Cape Town was a work which was eminently conducive to the moral improvement of the youthful part of the community, but they seem to consider that as the fund created by the gauging tax in the year 1818 was expressly declared to be applicable to this purpose, the aid which was afforded by the private fund of the Orphan Chamber should now be returned. As this opinion appears to be founded upon



the productiveness and permanence of a tax which for reasons that we have offered in another place we have proposed to repeal, it might be sufficient perhaps to confine ourselves to that observation, but we cannot help adding that if there had not existed other objects of colonial improvement which stood much in need of pecuniary support we should still have considered that at the period in which the gauging tax was imposed it would have been more just to have defrayed the whole expence of the construction of the Public Library from the private fund of the Orphan Chamber than to have provided for it by taxing the productive industry of a particular class of the community.

Amongst the objects of future aid which the Orphan Chamber has most strongly recommended in treating of the appropriation of the private fund is the Orphan House. in Cape Town, an establishment for which the public are indebted to the active benevolence and piety of a widow lady named Moller. It was destined by her for the reception and education of destitute orphans of both sexes, and through her means and influence a spacious building was raised, calculated for the reception of 100 children. It soon appeared that the funds which remained for the support of the establishment were insufficient, and although the Government has hitherto declined making any specific appropriation of public funds for the purpose, yet the favorable disposition with which it was viewed by the Earl of Caledon and by the present governor Lord Charles Somerset was evinced by a most liberal donation of the former, and by the sanction of the latter to an appropriation of the sum of eight thousand rixdollars from the private fund of the Orphan Chamber, the interest of which is now paid to the Directors of the Orphan House, and was increased in the year 1823 by a further annual donation of 400 rixdollars.

The assistance thus afforded by the Orphan Chamber is perfectly conformable to the spirit by which their former contributions were guided and to that which they have recommended as the principle of future appropriations, but as we have considered that all claims of reimbursement for these advances should be renounced on the part of the Orphan Chamber (no interest upon them having ever been stipulated) we have deducted them from the amount of the private fund

as stated in the Appendix to our Report on the Finances of the Colony, and have estimated the disposable balance at £27,383 16s. 6d. sterling, which altho' subject to a further reduction on account of the assistance recently afforded towards the building of the churches at Port Elizabeth and in the Cape District will be augmented by the accumulation of the private fund in the years 1825 and 1826.

We will here beg leave to recall to your Lordship's notice the several objects in aid of which we have recommended that this balance should be applied, viz. the construction of a new Government House in Cape Town and the conversion of the present residence into a Museum and Library, the conversion of the present Commercial Exchange with the consent of the present proprietors into a Court of Justice and offices, and the construction of a new Gaol in Cape Town on a more enlarged plan and in a better position, the appropriation of £3,000 to the Orphan House and of £2,383 to the Church Fund.

The existing charges upon the private fund consist of the annual contribution to the

1. Widows' Fund for 10 years from 1826	. . .	£45	0	0
2. Scholars' Fund of the Freemasons' Lodge the "Good Hope"	. . . . .	22	10	0
3. The African School Commission	. . . . .	37	10	0
4. The Orphan House	. . . . .	30	0	0
		<hr/>		
		£135	0	0

Of these we propose to retain only the three first, as the charges in favour of the Orphan House will be more than covered by the appropriation of the sum of three thousand pounds.

Having expressed our concurrence in the measure proposed by the Orphan Chamber of defraying the salaries and contingent expences from the fees and of making up the deficiency from the private fund, it will be necessary to submit to your Lordship the considerations by which we have been guided in giving effect to it. In framing the estimate for the future establishment of the Orphan Chamber in conformity to the preceding observations, your Lordship will find that we have reduced its present amount from £1,930 to £1,745.

We have proposed a considerable augmentation in the salary

of the President, dispensed with the situation of Vice President, and by proposing the selection of two of the retiring members of the Court of Justice, and the addition of a salary of £100 per annum to the amount of their retiring pension, we have provided a salary of £300 per annum to each of the stipendiary members of the Board. We recommend that the two honorary members should consist of a member of Council and of one of the highest Civil Servants of the stipendiary class.

We have made a slight reduction in the salary of the Secretary, as we are entitled to expect that he will be relieved of much of his present trouble and responsibility by transferring the duty of selling property to a licensed auctioneer.

We have reduced the salary of the Bookkeeper from £300 to £180 per annum, for altho' we have had occasion to remark the creditable manner in which the books of the Orphan Chamber have been kept, yet we think that his duties might be rendered less laborious and equally useful by abridging their number and also by simplifying the entries. We have also reduced the allowance of £112 per annum now made to the Translator to the Bookkeeper and that of £75 per annum to one of the present members of the Board for making out accounts of the liquidation of estates, both of which have been paid out of the private fund. The duty of making out the liquidation accounts appertains to the Secretary and the Bookkeeper, and ought not to be performed by the members of the Board by whom the same accounts are to be revised.

We have further proposed that the salary of the Chief Clerk should be raised from £75 to £180 per annum, and that of the Second Clerk from £48 to £140, a scale of remuneration which is more likely to secure efficient services than that which is now divided amongst four individuals.

In the Estimate annexed to our Report on the Finances of the Colony we took credit for a sum of £900 for the salaries of nine agents in the several counties of the Western and Eastern Provinces, but upon further consideration we find that the present mode of remunerating these officers by allowing them deductions from the percentage on the proceeds of sales will be more equitable both as it regards the parties interested in the estates and the agents themselves. The vendue percentage appropriated since the 1st January 1826 to the Colonial Revenue

consisted of an allowance of  $3\frac{1}{2}$  per cent to the secretary and one per cent to the messenger, the former of which by the tariff of fees dated in 1793 constituted part of the remuneration of the secretary, who as we have stated conducted all the sales. By the tariff of 1803 these allowances were consolidated into  $4\frac{1}{2}$  per cent and constituted part of the general fund of the Orphan Chamber out of which the salaries were paid until 1808 when the amount of those allowed to the officers in Cape Town were fixed and the whole of the fees and percentages received there were paid into the Treasury.

The district agents as we have observed were differently remunerated, and although no authority of the Colonial Government has been shewn for the deductions which they were allowed to make from the  $4\frac{1}{2}$  per cent on sales effected by them, yet no objection appears to have been made to them or to the variations in their amount which the Board found it expedient to make in proportion to the distance and the degree of responsibility which the agents incurred in the transmission of the proceeds to Cape Town. With regard to the appropriation that has been made by the Colonial Government since January 1826 of the  $4\frac{1}{2}$  per cent on sales in Cape Town and the vicinity, we have to observe that a relief was thereby obtained by the public treasury at the expence of the private fund of the Orphan Chamber, and although it may be alleged that all other sales of property in the Colony are subject to a tax differing in its proportions from the percentage of the Orphan Chamber and larger in its amount, yet it must be observed that as the sales of the latter are effected by the secretary in Cape Town and by the agents in the country districts no responsibility is incurred by the Government. By the alteration which we have proposed to make in the present system of effecting public sales it will be competent to the Orphan Chamber to employ a licensed auctioneer for those which take place in Cape Town and the vicinity. They will thus become subject to the general charge of auction duty and participate in the benefit which we expect from that arrangement, while the sales in the country districts will be effected by the agents of the Orphan Chamber, who will charge the same percentage on the proceeds to which other sales are liable, and after deducting the percentages which are allowed to them at present will remit the balance to Cape Town



where it should be subject to the examination of the Colonial Auditor and paid into the Treasury.

In recommending that the salaries of the other officers of the Orphan Chamber as well as the expences of administration should be defrayed out of the receipts and fees, and that the deficiency should be made up from the private fund, we consider that the former should be paid into the Colonial Treasury according to the practice which was observed previous to the 1st January 1826, and that the charges made against estates in the accounts of liquidation having been first seen and approved by the Master in Equity, should also be exhibited to the Auditor.

The deductions and percentages allowed on sales in the country districts should be checked by the exhibition of the Vendue Rolls to the same officer, and the sworn account of the casual fees which are now termed "Fees and Perquisites" should be accompanied by the book in which the original entries are made.

The contingent expenses of the Orphan Chamber which we propose to defray from the private fund consist of payments made on account of salaries which (with one exception amounting to Rds. 300 in favor of a collecting clerk) we have adjusted or disallowed in the Estimate of stationery, bookbinding, and incidental expences which cannot easily be charged against particular estates.

We estimate the average amount of this charge at £300, which added to those already enumerated on account of the "Widows' Fund," "Scholars' Fund," and "Schools Commission," and to the sum required to defray the excess of fixed salaries, will constitute a total charge of £823 upon the annual interest of the private fund, or a deduction from the disposable surplus amounting to £13,716.

Returning to the consideration of the several objects to which we have proposed that the surplus should be appropriated, we beg leave to suggest that the Orphan House in Cape Town should have a preference, and as the annual receipt of interest upon the sum of £3,000 will afford a more acceptable relief to that establishment than the actual advance of capital, we conceive that such an appropriation may immediately take place without any inconvenience.<sup>f</sup> With regard to the remaining

sum of £10,667 we feel ourselves bound to state that the difficulty of realizing capital secured on mortgages of land or buildings in the Colony is so great at the present moment that we could not contemplate the adoption of such a measure by the Orphan Chamber without a great sacrifice of the property of their debtors, and in the event of their being compelled to have recourse to judicial process they would have to submit to the protracted terms of credit upon which all public sales of real property are effected. We feel that these considerations will materially impede the accomplishment of the several objects to which in our Report on the Finances of the Colony we had hoped and recommended that the considerable balance of the private fund might be applied. We are as fully impressed now as we were at that moment of the importance of these objects, but we did not anticipate the necessity of making such ample provision for the existing charges of the establishment of the Orphan Chamber or of drawing so largely upon the annual interest of the private fund.

Before we conclude our observations upon the Orphan Chamber we will advert to an improvement which we think would be desirable in the exercise of that portion of its functions which regards the registry of wills. We have already had occasion to recommend the adoption of a principle which will lead to a more exact observance of the regulation which requires all wills executed in the Colony to be registered in the Orphan Chamber. We have observed that considerable improvement has of late taken place in giving facility of reference to the wills when registered, but no inspection or perusal of them is permitted, nor are copies or extracts given, except to persons who can shew that they are interested in the dispositions of them.

A similar restriction was lately extended to the application of the Guardian of Slaves for an extract from a will by which he intended to support the title of a slave to freedom.

Conceiving that as the public interest requires that a knowledge of the dispositions made by individuals of their property should be easily acquired and freely communicated, but more especially to the Guardian of Slaves, we beg leave to recommend that an inspection and perusal of all wills deposited in the Orphan Chamber should be allowed to any individual upon the

payment of a fee of one shilling to the clerk attending in the office of the secretary to the Orphan Chamber, and that certified copies or extracts of wills should be given gratis to the Guardian of Slaves without any previous reference to the Court of Justice.

From the tenor of the resolutions transmitted from time to time by the Dutch Government as well as from the instructions that were framed by the Commissioners in the year 1793, the intention seems to have existed of conferring upon the Board of Orphan Masters nearly the same portion of authority and jurisdiction in testamentary matters as was exercised in earlier periods by the Spiritual Courts. With this view a power was given to the Chamber to call upon private executors and administrators to register the inventories of estates committed to their administration, and altho' it has not been exercised, yet the want of some controlling authority of this kind has as the Orphan Masters justly observe led to much abuse of the confidence of Testators as well as to ruinous lawsuits and delays. It appears also that the high rate of remuneration which has been allowed to Executors and Administrators has held out inducements to individuals to assume those characters with a view to their personal advantage and to the detriment of the properties placed in their charge. Disclaiming any improper wish to interfere with the duties of testamentary guardians and executors, the Board of Orphan Masters in their treatise have proposed that this authority to compel the enregistration of inventories in the Orphan Chamber should be resumed, that persons acting in those capacities should be bound to submit the accounts of their administration to the Board for the purpose of obtaining the approval and registration of them, and that the charges made in such accounts should be assimilated to those which the Orphan Chamber are authorised to make.

We conceive that the registration of inventories and the assimilation of the charges made by executors in their testamentary accounts are measures which cannot fail to be beneficial to the community, but that the exhibition of their accounts for examination and approval should only take place in cases of dispute and under an order of reference made by the Courts of Justice.

While we thus recommend that the Orphan Chamber should

be considered as the lawful depository of testamentary records and the referees of disputed accounts, and that they should continue to exercise the jurisdiction which in the course of our preceding observations we have endeavoured to describe, we would on the other hand distinctly declare their liability to account in due course of law for their administration, to produce documents and vouchers, and to answer for any injury which parties may allege and prove to have sustained by their acts or neglect. This responsibility is distinctly recognised in the 79th article of the instructions of 1793, and experience has shewn that although appeals to it have not been frequent yet that the existence of a real and efficient responsibility in the Orphan Chamber to the Court of Justice is not less conducive to the security of individuals than to the public confidence which such an Institution ought to inspire.

The duty of keeping a registry of the deaths of free persons is one which was assigned to the Orphan Chamber at an early period, but it was not until the year 1822 that the registries afforded that facility of reference which forms the essential object and value of such records. The books of the Death Registry are now kept alphabetically, and exhibit the residence, name, age, place of nativity, parentage, names of husband and wife, and place of death of each person. These particulars are acquired from the sexton in Cape Town and from quarterly returns of the Landdrosts in the Districts, which are now made with regularity and appear to furnish desirable information and answers to the inquiries which are addressed by the Foreign Ministers through the office of your Lordship to the Colonial Government. I have &c.

(Signed) JOHN THOMAS BIGGE.

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[Office Copy.]

*Letter from* EARL BATHURST *to* MAJOR GENERAL BOURKE.

DOWNING STREET, LONDON, 7 September 1826.

SIR,—I have to acknowledge the receipt of your dispatch No. 27 under date of the 31st of May last, in which you state the measures which you had taken for placing Lieutenant



Bance in possession of the Office of Captain of the Port, and for indemnifying Mr. Blair for the loss of that situation.

Until it shall be practicable to provide in some other manner for Mr. Blair, there does not appear to be any objection to his receiving an allowance of £200 a year, which is the difference between his former Salary as Captain of the Port, and that which has been allotted to Lieutenant Bance ; but it will be desirable that you should not neglect any opportunity which may offer for relieving the Colony from this expence, by appointing Mr. Blair to some situation with a Salary not exceeding £300 ; and which Mr. Blair may with propriety hold with his Office of Collector of Customs. I have &c.

(Signed) BATHURST.

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Original.

*Letter from MAJOR-GENERAL BOURKE to EARL BATHURST.*

GOVERNMENT HOUSE, CAPE TOWN, *September 7th 1826.*

MY LORD,—In reply to your Lordship's despatch of the 8th April last, No. 225, I have the honor to report that no money whatever has been lodged in the hands of any person connected with this Government for the purpose of being transmitted to the friends of Mr. D. Cawood. The case of this person is as follows. Early in the year 1824 his house and premises were destroyed by the explosion of gunpowder placed in an outhouse by desire of Lieutenant Colonel Scott then commanding in Albany. Mr. Cawood applied for compensation, and a Court of Inquiry having sat at Graham's Town on the 17th June 1824 declared that in their opinion D. Cawood was entitled to the sum of three thousand five hundred and twenty three rixdollars and four skillings as remuneration for his losses. Of this sum 2,500 rixdollars were paid to him by order of Lord Charles Somerset (copies of D. Cawood's receipts are herewith enclosed), His Excellency at the same time stating he would refer the remainder of the claim for the approval of the authorities at home, as appears by the enclosed copy of a letter from His Excellency's Military

Secretary to Deputy Commissary General Hewetson. No traces however of this reference appear in any of the Books in the Offices here.

If the opinion of the Court of Inquiry is to be relied on, D. Cawood is entitled to a further payment of rixdollars 1,023 or £76 14s. 6d. He requested that this balance (which he states erroneously at £88 10s.) might be paid in England to his brother-in-law Mr. William Barratt residing at Keighley in Yorkshire, who it appears by the enclosure in your Lordship's despatch has applied at the Treasury for the purpose. I understand Lord Charles Somerset conceives Mr. D. Cawood to have received sufficient remuneration, but if your Lordship should think proper to refer this case to His Excellency, and that the claim of D. Cawood should be allowed, it would save time if the Colonial Agent in London were instructed to pay the amount. I have &c.

(Signed) RICHD. BOURKE.

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[Original.]

*Letter from MAJOR-GENERAL BOURKE to EARL BATHURST.*

GOVERNMENT HOUSE, CAPE TOWN, *September 7th 1826.*

MY LORD,—Altho' I could have wished to defer any application to your Lordship for encreased salaries to the Clerks and other persons holding inferior employments in this Colony, until the Report of the Commissioners of Inquiry should have been forwarded, yet in the case upon which I am now about to address your Lordship I cannot in Justice to the Parties interpose any further delay.

Upon the division of the Fiscal's Office into two distinct departments by Lord Charles Somerset at the suggestion of the Commissioners of Inquiry, no encrease was made in the number of Clerks, and the Department of Police received two Persons from the Fiscal's Office who are now returned on the fixed Establishment of the former, one with a Salary of £82 10s. and the second with £52 10s. per annum.

The Superintendent of Police has frequently applied to me for an additional Clerk, and some time ago I referred his appli-

cation to the Commissioners of Inquiry who examined the Superintendent on the Subject but have not communicated to me the result, nor do I believe it has been their intention to do so, as two of these Gentlemen have sailed for the Mauritius. It would be contrary to my instructions to augment the number of Clerks, but I may probably be obliged to allow an unfixed contingent charge for extra assistance in this Department until the Commissioners' Report shall be made known.

In the meantime there is no doubt that the two established Clerks are at full work, and as their present Salaries are too small, I would request your Lordship to allow the first £150 and the second £100 per annum, to commence from the first of September inst. It is at this rate the two Senior Clerks in the Office of Registrar and Guardian of Slaves are paid, and they are kept at full work also. I have &c.

(Signed) RICHD. BOURKE.

[Original.]

*Letter from MAJOR-GENERAL BOURKE to EARL BATHURST.*

GOVERNMENT HOUSE, CAPE TOWN, *September 7th 1826.*

MY LORD,—Having been requested to forward the enclosed Memorial by Mr. J. W. Stoll, I cannot allow it to pass thro' my hands without testimony to the honorable character which this Gentleman has obtained in the Colony and to his constant and warm attachment to His Majesty's Government.

I have &c.

(Signed) RICHD. BOURKE.

[Enclosure in the above.]

To the Right Honorable the Earl Bathurst, K.G., His Majesty's Secretary of State for the Colonies.

The Memorial of J. W. Stoll, of Cape Town, Cape of Good Hope, Humbly sheweth,

That your Memorialist has been in the Civil Service of the Government of this Colony since the year 1803, and during

that period has filled various situations under the several administrations of their Excellencies Sir David Baird, the Honorable G. H. Grey, Lord Caledon, Sir J. F. Cradock (now Lord Howden), Lord C. H. Somerset, and Sir R. S. Donkin.

That your Memorialist at present enjoys the appointment of Landdrost of the Cape District, together with that of His Majesty's Receiver General, to the former of which he was nominated on the 7th of August 1814, and to the latter on the 9th of April 1819.

That your Memorialist was in May 1825 further honored by a Seat in the Council of this Colony.

That your Memorialist being led to believe from reports which have prevailed on the subject, that in the arrangements projected for the future Civil Establishment of this Colony, all Civil Servants will be precluded from holding one situation in conjunction with another, your Memorialist most respectfully solicits, in the event of such a regulation being established, that your Lordship, in consideration of the length of service of your Memorialist, will graciously be pleased to allow him to retain the situation of Receiver General, (he having now held it for upwards of Seven years), under its present or any other designation, in preference to that of Landdrost of the Cape District, and at the same time, that your Lordship will preserve your Memorialist's interest from any injury to which it may be subject by the election which he now ventures to submit to your Lordship's favorable consideration.

And your Lordship's Memorialist as in duty bound will ever pray.

(Signed) J. W. STOLL.

CAPE TOWN, 31st August 1826.

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[Original.]

*Letter from LORD CHARLES SOMERSET to R. W. HAY, ESQRE.*

48 LOWER GROSVENOR STREET,  
LONDON, 7th September 1826.

SIR,—I have the honor to transmit to you, with the view that you may be pleased to lay it before Earl Bathurst, a



letter I have received from Abraham Borradaile, Esqre., Chairman of the Cape of Good Hope Trade Committee.

Of the expediency and good policy of raising the import duty at the Cape on British Manufactures and Produce from  $3\frac{1}{4}$  to 5 per Centum, I have already had the honor of expressing my opinion to you, and I have only to add that I think the duty of 10 per cent ad valorem on Foreign Goods imported in British Bottoms and of 15 per cent if imported in Foreign Bottoms is an ample protecting duty and should not be increased.

Upon the subject of an uncontrolled import and export of Bread Corn, I am by no means prepared to acquiesce fully with Mr. Borradaile. It must be recollected that upon such a principle it may happen that a large portion of corn may be exported at 110 Rds. and that previous to the next harvest the article may become so scarce as to necessitate an import of it at perhaps 300 per cent advance on the export price.

I have &c.

(Signed) CHARLES HENRY SOMERSET.

[Enclosure in the above.]

COMMITTEE ROOM, 25 ROOD LANE, 21st August 1826.

MY LORD,—Having laid before the Committee of the Cape of Good Hope Trade the Result of the Conversation with which your Lordship favoured me before you left Town, I beg leave respectfully to state to your Lordship the Opinion entertained by them upon some Questions you then desired me to submit to them.

First. As to what would be considered a sufficient protecting Duty to the Corn Farmer at the Cape, supposing the trade in that article in the Colony to be at all times free, your Lordship considering that 100 to 110 Rds. gross price would be sufficient to repay the grower with a profit, after paying every expense of bringing his produce to market, and there paying the imposts upon it.

In reply to this I beg to submit to your Lordship the following calculation :—

Estimating the Load of ten Muids weighing 1800 lbs. Dutch

to be equal to 1953 lbs. English, and estimating the English Bushel to weigh 60 lbs. English, the result would shew  $32\frac{1}{2}$  English bushels or about  $4\frac{1}{4}$  English Quarters to be equal to a Load of 10 Muids. The lowest price at which wheat fit for such a voyage could have been shipped in *England* previous to the late partial opening of the Ports was at least 26s. to 28s. per quarter, and at that price it must have given a great loss to the Importer of it into England, as it will be seen by reference to the Official Table of Prices published by Mr. Jacob that the average price at the usual shipping ports in Europe and at New York was at least 26s. per quarter during the latter part of last year. That price I therefore assume as the Basis of this Calculation.

26s. per Quarter is therefore equal to . . .	£5 10s. 6d. per Load	
2s. „ „ Loss on Bags . . .	8 6 „ „	
1s. „ „ Shipping Charges . . .	4 3 „ „	
10s. „ „ Freight and Primage . . .	2 2 6 „ „	
Insurance at $2\frac{1}{2}$ per cent on £8 5 9 . . .	4 2 „ „	
<hr/>		
Cost on its arrival at the Cape . . .	£8 9 11 „ „	
Landing Charges, Entry, &c. . . .	5 0 „ „	
Premium on Treasury Bills at 3 per cent . . .	5 3 „ „	
<hr/>		
	£9 0 2 „ „	
Cost of a Load of Corn to the Importing Merchant, <i>without any profit</i> . . . . .	£9 0 2	
Price of do. per Load to the Farmer, and which is supposed to include a sufficient living profit . . . . .	8 5 6	
<hr/>		14 8

Shewing a *natural* protection to the Cape Farmer of 14s. 8d. per Load, or  $8\frac{3}{4}$  per cent, even supposing the Foreign Corn to be *duty free*.

It is clear then that the Corn Farmer requires no Protection whatever to prevent the Merchant from underselling him, and it therefore appears to the Committee that any Duty imposed upon it must rather be considered with reference to conciliating the groundless fears of the Farmer on this head, than with reference to any real necessity for the measure ; but as Corn can never be imported with profit into the Cape except at a *famine price*, it will be well not to add to the Distress of the Consumer by the Imposition of too *heavy* Duty upon it. I

have only further to add that the Merchants consider a free Trade in the Export of Corn from the Colony as so vitally essential to its prosperity, that they beg most respectfully to solicit your Lordship's Protection on this Subject.

Secondly. With respect to the allowing a Colonial Draw-back on Wine exported from the Cape equal to the Colonial Duties paid on it in the progress of its Manufacture. The Merchants (seeing how zealous your Lordship has been to promote the Improvement of this Trade in all respects) trust they may have your Lordship's Sanction to a measure which will tend to make the Trade in this Staple Produce somewhat less ruinous than it has lately been ; how far this can be done without the Creation, as your Lordship intimated, of some other source of Colonial Revenue is a serious consideration, and feeling how intimately their own Interests are bound up with those of the Colony at large, the Merchants would be sorry to lie under the Objection of being the cause of any new internal Taxation. If therefore, as your Lordship likewise suggested, it should be necessary to impose any increased Duty on Imports, the Merchants see no Objection to a moderate Increase, and have only to suggest that if such a measure be adopted the protecting Duty upon British Manufactures should not be *less* than it is at present in Comparison with Foreign Goods, considering that though it is highly desirable for the Colony to become an Entrepot of Foreign Trade under the Warehousing System and subject in that respect to the smallest possible charges, yet as respects Colonial Consumption this Country which furnishes (even under its diminished advantages) a large and exclusive Market for the staple produce of the Cape is fully entitled to a very ample Protection in favour of its Manufactures.

With many thanks to your Lordship for your Consideration of the Wishes of the Merchants on these subjects,

I have &c.

(Signed) ABRAHAM BORRADAILE,  
Chairman of the Cape of Good Hope Trade Committee.

The Right Hon'ble Lord Charles Somerset.

[Office Copy.]

*Letter from* EARL BATHURST *to* MAJOR GENERAL BOURKE.

DOWNING STREET, LONDON, 8 *September* 1826.

SIR,—I have to acknowledge the receipt of your dispatch No. 29 under date of the 8th of June last, in which you enclose a Memorial from Mr. Poggenpoel ; and I am to acquaint you, that in Consideration of his long services, and of the strong recommendations in his favour which he has transmitted, you are at liberty to restore him to his situation of Secretary to the Worcester District. I have &c.

(Signed) BATHURST.

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[Original.]

*Letter from* MAJOR-GENERAL BOURKE *to* EARL BATHURST.

GOVERNMENT HOUSE, CAPE TOWN, *September 8th* 1826.

MY LORD,—I have the honor to enclose the copy of a letter addressed by the Acting Auditor General to the Chief Secretary to Government, representing as irregular a practice which has prevailed in this Colony for some time with respect to the issue of public money.

It is found necessary here, and probably everywhere else, to make occasional advances to different Departments under Government for the prosecution of some work or business, or the payment of some item of expense, which cannot be brought to account at the moment of such advance, but which subsequently is regularly accounted for, as if no such advance had been made. To issue money in this way it has been usual in this Colony to direct the Paymaster General to make out at the commencement of every month an Estimate of what he may require for its current service. This Estimate is sent in to the Chief Secretary to Government who directs the Receiver General, by letter written by order of the Governor, to issue such sum to the Paymaster General, and in like manner the Chief Secretary, when he finds it necessary, directs the Paymaster to make an advance for any particular service.



At the end of each month the Governor gives his warrant to the Receiver General for the amount of all sums advanced by him to the Paymaster General, on the authority of the Chief Secretary's letters, and in like manner, on the service being brought to account for which advances were made by the Paymaster, the Governor gives his warrants to him in the full amount of such service.

By this arrangement twelve warrants cover the whole annual issue from the Receiver to the Paymaster General, and those directed to the Paymaster General are very much reduced in number, to the great simplification of the accounts.

If the 21st Article of the Treasury Instructions was to be acted upon literally, it would prohibit every kind of advance, as the account must be closed before the warrant is issued according to the terms of this article, and thus temporary warrants must be considered exceptionable. As however there would be considerable inconvenience in precluding advances to the Paymaster of the Cape Corps, to the Superintendent of Works and Buildings, and occasionally to other Departments under Government, I have thought it my duty to bring this matter under your Lordship's notice, conceiving it may be advisable to refer this communication to the Colonial Auditors for their opinion on the subject. I have &c.

(Signed)      RICHD. BOURKE.

[Enclosure in the above.]

AUDIT OFFICE, 30th August 1826.

SIR,—Having occasion in my late examination into the Cash transactions of the Receiver General's office to call for the documents in support of the Receipts and Payments I found that the Authorities for the Issue of several sums of money are letters addressed to the Receiver General, under signature of the Secretary to Government, and on conferring with the Receiver General on this subject and whether he considered these Letters as sufficient authority to him he stated that having received his Instructions under signature of a Colonial Secretary he considered himself bound to follow any other Instructions communicated to him through the same channel.

I beg leave however with all respect to call your attention to, and to submit for the consideration of His Honor the Lieutenant Governor, the 21st Article of the Instructions of the Right Honorable the Lords Commissioners of His Majesty's Treasury for the Governor of the Cape of Good Hope, dated 18th March 1816, whereby it is directed that no Sums be issued unless authorized by warrants under the hand of the Governor. As those Instructions were transmitted to this office for its guidance and with directions to see that there be no deviation therefrom, I feel myself compelled to bring this subject under His Honor's notice. I have &c.

(Signed) WM. HAYWARD,  
Acting Auditor.

The Secretary to Government.

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[Office Copy.]

*Letter from R. W. HAY, ESQRE., to MR. THOMAS WILLSON.*

DOWNING STREET, 8 September 1826.

SIR,—I am directed by Earl Bathurst to acknowledge the receipt of your communication of the 24th ultimo, and to acquaint you that you should address your application to His Majesty's Secretary of State for Foreign Affairs. I am &c.

(Signed) R. W. HAY.

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[Office Copy.]

*Letter from EARL BATHURST to MAJOR GENERAL BOURKE.*

DOWNING STREET, LONDON, 9 September 1826.

SIR,—The Lords Commissioners of His Majesty's Treasury have transmitted to me a requisition which you had forwarded to them for clothing for the use of the Government Slaves at the Cape of Good Hope; and as it appears to be no more than the ordinary supply of Clothing which has been annually required for that purpose, I have recommended that these

Articles should be provided and forwarded ; but as the course which you have pursued in this instance appears to be irregular, inasmuch as all similar requisitions have hitherto been made to the Treasury by the Officer at the head of the Commissariat Department, I have to request that you will adopt a similar course with respect to all future requisitions of the same description. I am &c.

(Signed) BATHURST.

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[Original.]

*Letter from MAJOR-GENERAL BOURKE to EARL BATHURST.*

GOVERNMENT HOUSE, CAPE TOWN, 9th September 1826.

MY LORD,—The great inconvenience which is felt in this Colony from the want of a Civil Engineer and Architect has I believe been already under your Lordship's notice. It has occurred to Sir Richard Plasket that it may be remedied by engaging in the service of the Colony a person now here of the name of Skirrow, who is at present employed in building an Observatory near this Town.

The manner in which this Building has been constructed bears strong testimony to the skill and attention of Mr. Skirrow, and as he has been regularly brought up to the profession of a Civil Engineer and Architect, there is every probability of his becoming a useful public servant.

The salary which he requires is £500 per annum, which can be afforded without much additional expense to the Colony by the following arrangement. A person of the name of Chisholm was employed under a contract (of which the enclosed is a copy) for five years, commencing from the 21st November 1812, to superintend the Water Works then in progress in this Town, at a salary of £400 per annum. The Water Works have long been completed, but Mr. Chisholm continues to enjoy £400 a year for superintendence, besides being employed as a Plumber and receiving pay for his work in this Trade. His services as Superintendent have for many years been very trifling, as the pipes have long since been laid and the fountains erected.

It is proposed therefore to discharge Mr. Chisholm, who is now fully established as a Plumber in good business, and can have no just cause for complaint at being removed, after having held an advantageous employment for so many years more than he had any right to expect.

By giving his salary to Mr. Skirrow, who is fully equal to the care of the Water Works, the services of a good Architect and Civil Engineer will be obtained at the cost of £100 per annum in addition. I should however further observe that if your Lordship should not think it necessary to continue the office of Inspector of Government Works and Buildings, which has been lately established, a reduction of £225 per annum might be effected by placing Mr. Skirrow at the head of this branch of service. The present occupier of this place, Mr. F. Hope, was put into it, as a gentleman of character and integrity, to control the proceedings of the Overseer, who alone had been responsible for the expenses incurred in the Department. Mr. Hope possesses no professional skill in the building line, having been brought up for, and served in, the Royal Artillery for some years. If however your Lordship should approve of the appointment of Mr. Skirrow as Civil Engineer and Architect, I hope it may be permitted to retain Mr. Hope in his office of Inspector until some other employment can be allotted to him. He has attached himself to this Colony, and cannot justly be blamed for a want of skill to which he never pretended.

I have to add that Mr. Skirrow's offer of service here is conditional on his obtaining permission from the Lords of the Admiralty, to whom he considers himself engaged, if their Lordships should desire him to proceed to India, as he has some reason to suppose was lately contemplated. If therefore your Lordship should approve of the arrangements now proposed, it may be advisable to communicate with the Admiralty on the subject. I have &c.¶ ]

(Signed) RICHD. BOURKE.

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[Original.]

*Letter from LORD CHARLES SOMERSET to R. W. HAY, ESQRE.*

48 LOWER GROSVENOR SQUARE, 9th September 1826.

SIR,—I do myself the honor to transmit to you a letter I have received from Lieutenant Pedder, R.N., late Deputy Port Captain of Table Bay, and take the liberty to recommend his very pitiable case to the most favorable consideration of Earl Bathurst.

I beg to refer you to my dispatch to Earl Bathurst, under date 9th of February 1826, for a more particular statement of Lieut. Pedder's unfortunate circumstances. He is a skilful and meritorious officer. I have &c.

(Signed) CHARLES HENRY SOMERSET.

[Enclosure in the above.]

CAPE OF GOOD HOPE, June 1st, 1826.

MY LORD,—I hope not to be deemed presuming in thus addressing Your Lordship. Lieut. Bance, an officer of the same standing as myself, has just arrived to take on himself the duties of this Office on an Income of £300 per annum, which I can only attribute to the non receipt of Your Lordship's kind Letter of Interest on my behalf to Lord Bathurst not having been received prior to his appointment. My having entered on the duties of this office under the conviction of being confirmed has involved me in expences, which was unavoidable to a person so unfortunate, and entering as it were anew into Life. I have made many alterations for the shipping Interest in this Bay, and during your Lordship's absence have saved two valuable vessels from total wreck, independent of rescuing three others from most peculiar situations, all of which has been publicly acknowledged by their Commanders as well as the united Letters of every Merchant of this Colony who has addressed this Government, praying that I may not be removed from an office where my services was of such public good, joined to my perfect knowledge of this Bay and the Coast,

having surveyed it as far back as 1813; the representations of the agents for Lloyd's have also been made for me. Had I retained this situation, My Lord, and my plans executed, Vessels should have had as little to fear from entering this Bay at Midnight as noonday. The Governor and His Majesty's Commissioners will corroborate my statement: one prominent feeling next to the public Good has actuated me, which is to prove deserving of your high recommendation. Allow me to claim your Lordship's promise of interceding with Lord Bathurst for me to obtain a situation equal to the one now taken from me.

I cannot refrain from saying how ardently I wish with every one here for your Lordship's return. When we will prove to the World our testimonies of regret at your departure will be only a shadow of that feeling which shall be evinced on your Lordship's restoration to us, When every mountain top shall blaze, in proof of our united respect for our Governor.

I have &c.

(Signed) G. M. PEDDER.

His Excellency the Right Honorable  
Lord Charles Somerset.

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[[Office Copy.]]

*Letter from* EARL BATHURST *to* MAJOR GENERAL BOURKE.

DOWNING STREET, LONDON, 10 September 1826.

SIR,—I transmit herewith enclosed a communication which I have received from Lord Charles Somerset, in which he recommends for my consideration the expediency of raising the duties on Imports at the Cape from  $3\frac{1}{4}$  per. centum to 5 per centum; and I am to desire that you will lose no time in bringing this proposal under the consideration of the Council. I have &c.

(Signed) BATHURST.

[Original.]

*Letter from J. T. BIGGE, ESQRE., to R. W. HAY, ESQRE.*

CAPE TOWN, 10th September 1826.

SIR,—I take an early opportunity of informing you that Major Colebrooke and Mr. Blair embarked on the 7th inst. in his Majesty's ship *Sparrowhawk* and sailed immediately for Mauritius.

I returned from Simon's Town (the port from whence they embarked) to this place yesterday with Mr. Gregory, and I shall continue to use every exertion to complete our general Report upon the state of the Colony, and to transmit it at the earliest opportunities to England. I have &c.

(Signed) JOHN THOMAS BIGGE.

[Original.]

*Letter from LORD CHARLES SOMERSET to R. W. HAY, ESQRE.*

September 10th 1826.

MY DEAR SIR,—I take the liberty of sending you the plan of the chapel at Brighton that I mentioned to you. I have &c.

(Signed) CHARLES HENRY SOMERSET.

, [Enclosure in the above.]

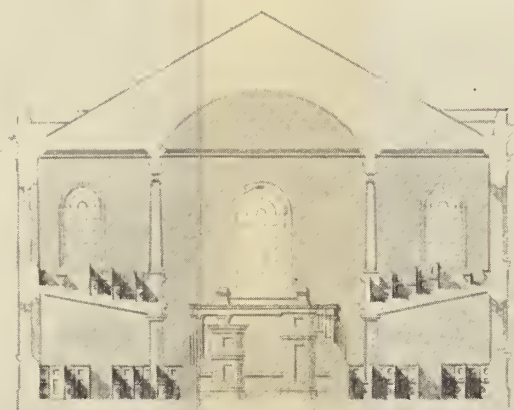
BRIGHTON, September 3rd 1826.

MY LORD,—I have the pleasure to forward herewith the plans of St. George's Chapel, which will I trust be found sufficiently explicit. Should Your Lordship prevail upon His Majesty's Government to adopt the plan at Cape Town, I flatter myself that I shall be commissioned to prepare the necessary working plans, specifications, &c., which would be *absolutely necessary* in order to the proper performance of the





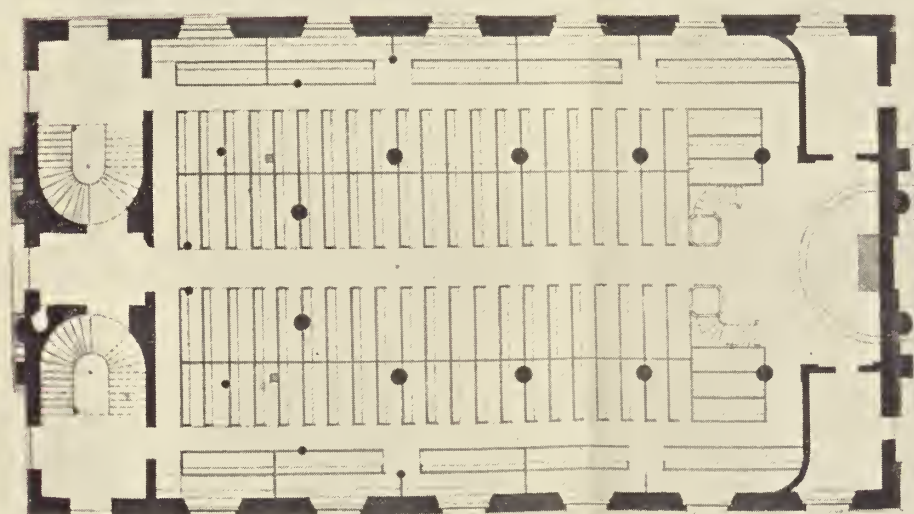
*West Elevation*



*Transverse Section  
Looking East*

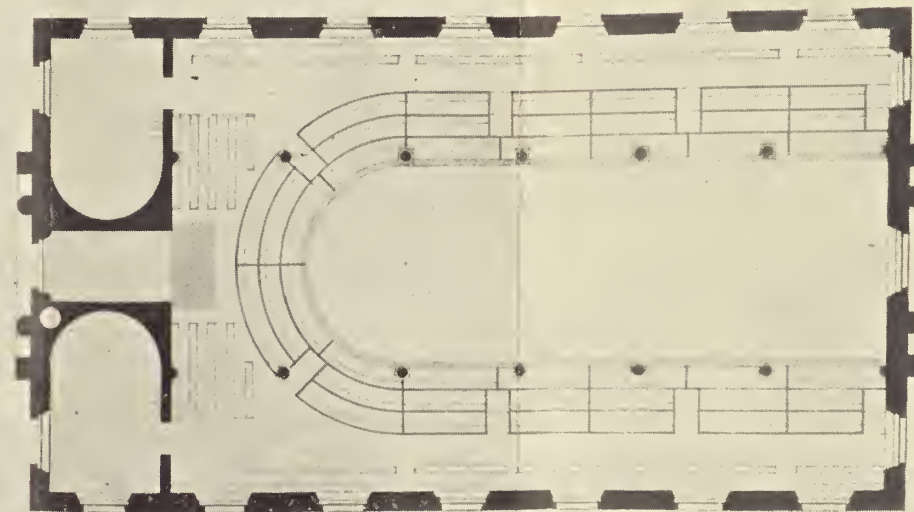


*East Elevation*



*Ground Plan*

- PLANS -  
ELEVATIONS AND SECTIONS -  
- OF -  
- ST GEORGES CHAPEL -  
- BRIGHTON -  
- CA BUSBY ARCHITECT  
BRIGHTON  
1825



*Gallery Plan*



*Longitudinal Elevation*



*Transverse Section  
Looking West*



*Longitudinal Section*





various work. In the interim should any further particulars be required, I shall have great pleasure in furnishing them.

I have &c.

(Signed) C. A. BUSBY, Architect.

Lord Charles Somerset.


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[Office Copy.]

*Letter from* EARL BATHURST *to* MAJOR GENERAL BOURKE.

DOWNING STREET, LONDON, 11 *September* 1826.

SIR,—I have the honor to transmit to you enclosed a copy of a communication which has been received from the Secretary to the Lords Commissioners of His Majesty's Treasury, containing the decision to which their Lordships have come in regard to the question of the Currency at the Cape of Good Hope.

In making known to the parties who have more directly prayed a reconsideration of the subject, that His Majesty's Government would not consider themselves justified in recommending to His Majesty a revision of the Order in Council of the 23rd of March 1825, there does not appear to be any objection to your publishing the grounds upon which the decision is founded; and you are, therefore, at liberty to frame your official communication to the Petitioners in the spirit of the arguments which have been advanced by The Lords Commissioners of His Majesty's Treasury. I have &c. 

(Signed) BATHURST.

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[Original.]

*Letter from* MAJOR-GENERAL BOURKE *to* EARL BATHURST.

GOVERNMENT HOUSE, CAPE TOWN, *September 11th* 1826.

MY LORD,—I have the honor to enclose copies of two Ordinances which have been lately passed by Council. The first relating to the manner of publishing legislative acts, was

occasioned by a report industriously circulated by the principal Slave Owners here, that the Ordinance No. 19, for improving the condition of the Slaves at the Cape of Good Hope, had not been promulgated according to form, and had not therefore obtained the force of a law.

With reference to this subject I thought it right to state a question for the opinion of the Court of Justice, and enclose a copy of their reply. Upon laying this opinion before Council, it was thought expedient to pass and publish the Ordinance No. 21.

I should add that the Court of Justice has brought the Ordinance No. 19 into operation on a late occasion by hearing the Guardian of Slaves in a case where a slave was on trial. There is therefore no longer any question whatever as to its being law in this Colony.

The second Ordinance No. 22 was brought in and passed at the desire of the Court of Justice, as your Lordship will perceive by the enclosed letter. The permanent Sitting Commissioner was also particularly desirous of its enactment, and I have no doubt it will be of considerable benefit to the Community. It has been drawn up by the Law Officers here, agreeably to the forms and substance of the Criminal Code in the Colony.

The amount at which petty larcenies are fixed may appear to your Lordship high, but so are the powers of the Court to try them, as the term "correction in the public Prison and temporary imprisonment" authorises a sentence to severe whipping, and any period of confinement not perpetual.

There is however an appeal to a Superior Tribunal, which the present Statute takes away only in cases of a sentence so trifling as to be applicable only to the slightest offence.

I have &c.

(Signed) RICHD. BOURKE.

[Enclosure 1 in the above.]

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CAPE TOWN, 5 August 1826.

SIR,—In compliance with a letter from the Colonial Office dated the 1st Instant, requesting our legal opinion on the question "whether according to the Laws now in operation in

this Colony, any particular manner of publishing a new Law is required, and without which formality such Law is not binding on the public," we have the honor to state, that the publishing a public promulgation of a Law or Regulation for the observance of the people has always been considered in this Colony, on the grounds of the Dutch Laws, as an essential requisite to render such Law or regulation binding upon the Community, and which has been so considered and observed ever since the first establishment of the Colony.

With regard however to the manner or form of publishing, this has not always been the same, but has varied at different times with the exception of the public reading of the Law, after the ringing of the Bell as a convocation of the people, and the subsequently posting it up in the most conspicuous places for the further and more general information of the Public, which formalities have been in constant observance to the present day.

Under the Government of the Dutch East India Company the mode of publishing as far as regarded the Town and the Cape District was in the Castle, in the presence of the Fiscal, who as the Crown Officer being charged with the Execution and maintenance of the Laws, represented on such occasions the Executive power, assisted by two Members of the Court of Justice, which latter however merely attended to give more formality to the act and to attest as far as necessary the fact of the promulgation and nothing more, without any power or authority whatsoever.

The manner observed in the Country Districts was the same, namely, in the presence of the Landdrosts, each in his respective District, as exercising the same Function as the Fiscal in Cape Town, and in the execution of which they were assisted by Commissioners from the Board of the Heemraden. As however these promulgations took place in the villages, and therefore could not be of any utility to those who resided at a distance, the new Law was sometimes in extraordinary cases published from the pulpit, but generally outside the Church door, to the persons assembled there after Divine Service, and thereupon affixed to a Board on the Church for the further Information of the Inhabitants.

These modes of publishing were likewise in observance during



the occupation of this Colony by His Majesty from the year 1795, and continued to the return of the Settlement to the Batavian Republic in 1803, but since the latter period, this alteration was made, that although the promulgation took place in the Castle, it was effected by the Colonial Secretary, at first alone, but afterwards assisted by two of the local Clerks belonging to his Department ; till that at last by a Resolution of the Governor and Council dated the 6th June 1804 the promulgation of all public laws and Regulations was committed in Cape Town to Commissaries of the Burgher Senate, in presence of the Attorney General or some person on his behalf, and in the Country Districts to the Landdrosts and Commissioned Heemraden, and also for the information of the Inhabitants of remote parts of the Districts by the Church Clerks, after the conclusion of the sermon. From that period the mode of publishing has been in Cape Town, from the Stad House by the Secretary of the Burgher Senate in presence of the Attorney General, and after the surrender of the Colony in 1806, in that of the Fiscal or his Deputy assisted by Commissioners of the Burgher Senate, and this form or manner of publishing must be considered as in observance to the present time, because at least, for as far as we know, no alteration has been made therein, neither are we acquainted of any change in the form having taken place in the Country Districts, excepting that after the Government Proclamation and orders published in the *Cape Gazette*, the gazettes were regularly forwarded to the Country Districts, whereby the distant Inhabitants were duly made acquainted with all the Public Laws and orders.

On all those grounds in connection with the above-mentioned Resolution of the 6th June 1804, we are humbly of opinion, that the manner of publishing a Law *viva voce*, from a public place, after a previous calling of the people by ringing of Bell, in presence of the public officer, assisted in Town by Commissioners from the Burgher Senate, and in the Country Districts by Commissioned Heemraden contains all the formality required by the Colonial Laws to give that force to any Law, order or regulation, whereby it becomes binding on the people, although at the same time we are not of opinion, with all due submission to better and wiser judgment, that the assistance of commissioners from the Burgher Senate in Cape Town, and of Heem-

raden in the Country Districts, (whom as we above observed we consider merely as Witnesses to the fact of the publishing) does not constitute such an essential requisite of the promulgation than when the public Officer, who is here the real and only person in Authority, can prove the due publishing of a Law in any other admissible way, the Law should not be equally as binding upon the people as if the Commissioners aforesaid had assisted in the same manner as in Holland, where it was customary to have the Laws of the Country published in the different Cities and Towns only by Sworn Beadles as charged with the executive power by or on behalf of the Sovereign ; and this our opinion is not contrary to the principle in this case, nor to the meaning of the aforesaid Resolution of the 6th June 1804, which although it says that in future the publishing shall take place by Commissioners from the Burgher Senate in presence of the Attorney General, these words however are far from considering the said Commissioners as the principal persons in the execution of the act of promulgation, and which we conceive is sufficiently clear and plain from the period that follows with respect to the Country Districts wherein the Landdrosts are in the first place charged therewith. Submitting the above as our opinion,

We have &c.

The Chief Justice and Members of the Court.

(Signed) J. A. TRUTER.

By order of the Court,

(Signed) D. F. BERRANGÉ.

His Honor Major General Richard Bourke.

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[Original.]

*Letter from MAJOR-GENERAL BOURKE to EARL BATHURST.*

GOVERNMENT HOUSE, CAPE TOWN, *September 11th, 1826.*

MY LORD,—Having stated in a former despatch that I hoped to be able to provide for the service of this Government without any increased demand on the British Treasury, until the Report

of the Commissioners of Inquiry being received and considered your Lordship should have determined upon the future financial system of the Colony, I think it right now to lay before your Lordship the manner in which I hope to accomplish this object, more especially as from the delay which has occurred in the transmission of the Commissioners' Report, a considerable period of time must still elapse during which the Colony will be left to provide for the present Establishment with the present means.

I propose to take from the Lombard Bank the amount of Capital of debt as it is paid in, instead of lending it out again, as has been hitherto practised. The average amount of Capital annually paid in to this Establishment is about 110,000 rixdollars or £8,250. There are also in the Discount Bank about 95,000 Rds. or £7,125, being a deposit from the Lombard Bank created by partial repayments of a sum of 500,000 rixdollars issued by Lord Howden in 1812. This paper was put into circulation under the condition of being cancelled as it was repaid, and 15,000 Rds. were accordingly destroyed before Lord Howden resigned the Government. Since that period no further destruction of this paper has taken place. It has been lent out from time to time as it came in, until latterly the repayments have been left to form the amount of 95,000 Rds. as above stated. By being kept in the Discount Bank it has enabled that Establishment to discount more freely than it otherwise could venture to do, as in the event of a run being made upon it, this deposit might be available to save the credit of the Bank.

If it should be absolutely necessary I propose to make use of the sum for the current service of the Colony. By the 8th article of the Treasury Instructions this description of Paper Money is indeed directed to be cancelled as it is repaid, but I trust I may be allowed under the emergency of the case to reissue it, if I shall find it necessary for the preservation of the public credit. It may be done more safely now than at any former time, as the amount of paper money in circulation has been much diminished by the quantities paid into the Military chest for bills on England, whilst the Specie issued from thence has not been equal in amount nor has it all remained in the Colony.

These several sums together make something more than £15,000, to which I may add the amount of Mr. Bresler's debt, about £2,600, making on the whole about £18,000 to be added to the ordinary revenue of the Colony for the year 1826 and probably the first six months of 1827. I should add that the Revenue has already had an extraordinary aid of £3,000, being the amount of an unclaimed Sale in the Vendue Department, which, as this Government is considered to be the security, I directed to be paid into the Treasury. The whole extraordinary aid for the period may thus be taken at £21,000. Your Lordship will I hope approve of these measures for carrying on the service of this Government pending the final adjustment of its finance. I could have wished not to curtail the means of accommodation to the Public by the Banks during the present distressed state of the commercial and agricultural interests, but I in truth saw no other resource. Lord Charles Somerset was enabled last year to obtain a loan to the amount of 250,000 Rds., but I do not think such a measure could be effected now. I have &c.

(Signed) RICHD. BOURKE.

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[Original.]

*Letter from MAJOR-GENERAL BOURKE to EARL BATHURST.*

GOVERNMENT HOUSE, CAPE TOWN, *September 11th, 1826.*

MY LORD,—I have the honor to acknowledge the receipt of your Lordship's despatch of the 10th April last, No. 257, covering a communication from the Secretary to the Board of Treasury with an account shewing the debt due from this Government to the Military Chest and requiring measures to be taken for its liquidation. As His Majesty's Commissioners of Inquiry are instructed to report on the Finances of the Colony, it is unnecessary at this time to trouble your Lordship with any detailed observations on the subject; but in reply to the desire expressed by the Lords Commissioners of His Majesty's Treasury that the Revenue of the Colony should be encreased or the Establishment diminished so as to afford a prospect of the liquidation of the debt, I beg leave to submit



that after an attentive consideration of the financial concerns of this Colony for the last six months, I am of opinion that to raise the Revenue to meet the existing Establishment is totally impossible, and that to bring the Establishment within the compass of the Revenue, it will be necessary to reduce the strength of the Cape Corps by one half and its expense by two-thirds, and to diminish at the rate of from thirty to fifty per cent the salaries of all the principal Functionaries sent out from Great Britain to the Colony, besides abolishing some offices not absolutely required at this time. If together with these retrenchments the greatest latitude of admission into these ports were given to Ships of foreign States under the provisions of the 6th Geo. 4 Cap. 114, the Warehousing system fully adopted and the same advantages as to market in the United Kingdom afforded to the wheat and spirits of this Colony that are granted to the Mauritius and Canada, it is possible that in the course of time the desire of the Lords Commissioners of His Majesty's Treasury might be accomplished, and the debt to the Military Chest discharged.

The Commissioners of Inquiry will probably not go the full length of these propositions, and perhaps some good may be accomplished by a less decisive arrangement ; but I submit that nothing short of the foregoing will effect the object of the Lords of the Treasury, and enable the Colony to pay all its own charges and liquidate its debts. I have &c.

(Signed) RICHD. BOURKE.

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[Copy.]

No. 23. G. R. (Signed) RICHD. BOURKE.

Ordinance of His Honor the Lieutenant-Governor in Council, for facilitating the Commerce with the Caffres, and other Nations living beyond the Boundaries of the Colony, and for consolidating the several Proclamations and Ordinances relating thereto.

Whereas it is expedient to give increased facilities to Commerce with the Caffres and other Nations living beyond the

Boundaries of this Colony, and to augment the number of Fairs, which may now legally be held within or beyond the Frontier, subject, however, to such Restrictions and Regulations as the particular circumstances of the Intercourse between the Colonists and those Nations may require: Be it therefore hereby enacted, That it shall and may be lawful for the Governor of this Colony, for the time being, to appoint Fairs, to be called "BORDER FAIRS," for the purposes of Commerce with the Nations residing beyond the limits of this Colony, to be holden in such places within or beyond the confines of the Colony, and at such times as He by agreement with such Nations shall direct and appoint, and to make Rules and Regulations for the conducting thereof, and to entrust the care of providing for the due execution of such Rules and Regulations to the Officer commanding His Majesty's Troops on the Frontier, or to such other Person, whether a Military Officer or otherwise, as may be specially appointed to attend at such Fair by the Governor for the time being; or, if a Military Officer, by the Officer commanding as aforesaid: Provided always, that such Rules and Regulations shall not contain anything repugnant to the Provisions of this Ordinance, nor any Clause, by which any Custom, Duty, Tax, or Imposition of any kind whatsoever, may be levied, demanded, or received, on, of, or from, either Colonists or Foreigners.

II. And it is further enacted, That the Landdrosts and Deputy Landdrosts of the several Frontier Districts in this Colony are hereby authorised and required to grant Licences, under their Hands and Seals, to Persons of good character, to attend and traffick at the Border Fairs; every such Licence to be perfected on a Stamp of *Six Pounds*, or of such other amount as may hereafter be legally fixed—to be in force for One Year only, and renewable from Year to Year; and every such Licence shall contain the Name and Place of Abode of the Persons to whom it is granted, and shall not be transferable to any other; and the several Landdrosts and Deputy Landdrosts are hereby required to register all such Licences, and to transmit a Quarterly Return thereof to the Office of the Chief Secretary, in Cape Town; and all Licences which may already have been issued under the Authority of the Ordinance of the Governor in Council of the 21st June, 1825, (No. 4) shall con-

tinue in force until the expiration of the term for which they were severally granted.

III. And it is further enacted, That it shall not be lawful for any Person to traffick at a Border Fair, without such Licence as aforesaid, or to refuse to shew such Licence on demand, to the Officer commanding, or other Person having the superintendence of such Border Fair ; and every Person who shall be convicted of trafficking without a Licence, or of making use of the Licence of another Person, or of maltreating or defrauding a Caffre or other Foreigner attending such Fair, shall be subject to a Penalty not exceeding *Ten Pounds*, nor less than *Five Pounds*, or in default of payment thereof, to Imprisonment for a period not exceeding Three Months ; and every Person trafficking with a Licence, and refusing to shew the same on demand of the Officer or Person hereby authorised to require it, shall, on conviction, be subject to a Penalty not exceeding *Five Pounds*, nor less than *Two Pounds*, or in default of payment thereof, to Imprisonment for a period not exceeding One Month.

IV. And it is hereby further enacted, That it shall and may be lawful for the Dealers licensed as aforesaid, at any Border Fair, to offer for Sale or Barter, any kind of Goods, Merchandize, or Cattle, which may be legally sold in this Colony : Provided always, that no Fire-Arms, or other offensive Weapons, or Ammunition of any kind whatsoever, or any Spirituous Liquors, Wines, Beer, or Ale, be offered for Sale at any such Border Fairs, such Articles being hereby declared contraband. And the Officer commanding, or other Person having the superintendence of any Border Fair, shall, and he is hereby authorised and required to search any Baggage or any Person present at such Fair, whom he may suspect of having about him or her, or in his or her Baggage, any Arms or Ammunition, Wines, Beer, Ale, or Spirituous Liquors ; and on the discovery of any Spirituous Liquors, Wines, Beer, or Ale, beyond what in the opinion of the Officer, or other Person having the superintendence of the Fair as aforesaid, may be requisite for the consumption of the party, to seize and spill the same,—and on the discovery of any Arms or Ammunition, beyond what may be deemed necessary for personal defence, to seize the same, and forward the Person or Persons on whom, or in whose

Baggage such Fire-Arms, or other offensive Weapons, or Ammunition may be found, in custody to the nearest Landdrost or other Civil Magistrate, to be dealt with according to Law.

V. And it is further enacted, That the Officer commanding at, or other Person superintending a Border Fair, shall be, and he is hereby authorised and required to arrest and detain in custody until the Fair shall be over, any Person, who shall commit any Riot or Disturbance therein, or who shall Traffick without a Licence, or who shall Traffick or offer to Traffick in contraband Articles ; or who shall refuse to shew his Licence, when required, by the proper Officer so to do ; or who shall be detected in defrauding or maltreating a Caffre, or other Foreigner attending such Fair, and shall discharge or send away such Person in custody to the nearest Magistrate to be dealt with according to Law, as such Officer or Superintendant, in his discretion shall think fit : Provided always, that such Discharge shall not prevent or impede the Prosecution before the proper Tribunal of any Person taken into custody and subsequently discharged as aforesaid : And provided further, that any Person who shall have been taken into custody for Trafficking, or offering to Traffick, in contraband Articles, shall not be discharged, but shall be forwarded to the nearest Magistrate as aforesaid.

VI. And it is further enacted, That it shall and may be lawful for the Governor for the time being of this Colony, to authorise the Landdrosts, and Deputy Landdrosts, of the Frontier Districts, to Grant Licences, under Hand and Seal, to such Colonists of good character as may desire to trade privately with the Nations beyond the boundaries of such District ; such Licences to be perfected on a Stamp of *Six Pounds* value, or of such other amount as may hereafter legally be required, and to be in force for one Year only ; and further, to grant Passports to Foreigners living beyond the Frontier to enter into the Colony, for the purpose of trading with the Colonists, under such Regulations and Restrictions, and subject to such Penalties for the contravention thereof, as the Governor of this Colony, for the time being, may authorise and direct : Provided always, that nothing therein contained shall be repugnant to any of the Provisions of this Ordinance.



nance, or impose any Duty or Tax not herein authorised ; or any Penalty greater than the confiscation of any Goods, Wares, or Merchandize, which in contravention of the Regulations as aforesaid shall be brought by any Foreigner into the Colony, and removal of such Person to beyond the boundaries thereof.

VII. And whereas it is necessary, with a view to prevent the fatal consequences that have arisen from illicit Traffick between the Caffres and the Colonists, to prohibit, under the severest Penalties, all Commerce with the Nations living beyond the Boundaries of the Colony, which is not authorised under the provisions of this Ordinance : It is hereby enacted, that it shall not be lawful for any Persons, excepting the Military on Duty, and licensed Traders on their journey to and from the Border Fairs, or other Persons licensed to Trade privately under the authority of this Ordinance, to pass into any parts beyond the Boundary of this Colony, without a written Passport, signed by the Landdrost or Deputy Landdrost of the District through which such Person shall pass out of the Colony, and the Officer commanding His Majesty's Troops, when any are stationed therein ; and any Person duly convicted of such Offence shall be liable to a Penalty not exceeding *Ten Pounds*, nor less than *Five Pounds*, or in default of payment, to Imprisonment for a period not exceeding Two Months for the first offence, and for the second and every subsequent Offence, to a Penalty not exceeding *Twenty Pounds*, nor less than *Ten Pounds*, or in default of payment, to Imprisonment for a period not exceeding Four Months.

VIII. And it is further enacted, That any Person, duly convicted of having been beyond the Frontiers of the Colony, having in his or her possession, for Sale or Barter, any Articles authorised to be sold or bartered at the Border Fairs, not being a licensed Trader, on his or her way to or from the Border Fairs, or other Person licensed to Trade privately under the authority of this Ordinance, such Person shall be liable to a Fine of *Twenty Pounds*, or in default of payment thereof, to Imprisonment for Three Months for the first Offence, and for the second and every subsequent Offence, to a Penalty of *Fifty Pounds*, or in default of payment thereof, to Imprisonment for Six Months.

IX. And it is further enacted, That any Person who shall be duly convicted of having passed the Boundaries of the Colony as aforesaid, without legal permission so to do, and shall be further convicted of having actually engaged in Traffick with the Caffres, or any other of the Nations living beyond the Boundaries of this Colony, contrary to the Provisions of this Ordinance, shall be liable to a Fine of *Fifty Pounds*, or in default of payment thereof, to Imprisonment for Six Months for the first Offence ; and for the second Offence such Person shall, in addition to the Fine of *Fifty Pounds*, or Imprisonment for Six Months as aforesaid, be banished for Three Years from all the Frontier Districts of this Colony.

X. And be it further enacted, That any Person, save and except the Military on duty, or other Person duly authorised by the Governor of this Colony, who shall be found beyond the Boundaries of this Colony, having in his or her possession any Fire Arms or other Offensive Weapons, or any Ammunition, beyond what may be deemed necessary for personal defence ; and any Person who shall sell or barter, or offer for Sale or Barter, to any of the Natives residing beyond the Boundaries, any contraband Article whatsoever—whether such Sale, or offer of Sale, take place within or beyond the Boundaries of this Colony, or at a Border Fair or otherwise, shall, on conviction thereof, be subject to the Penalty of *One Hundred Pounds*, or in default of payment thereof, to Six Months' Imprisonment at Hard Labour, and shall further be banished, after the payment of such Fine, or the expiration of such Imprisonment, from all the Frontier Districts, for the space of Three Years.

XI. And it is hereby enacted, That all Contraventions of the present Ordinance shall be cognizable before the Courts of Landdrost, or Deputy Landdrost, and Commissioned Heemraden of the District in which (or where the Offence has been committed beyond the Colony, of the District nearest to the place where,) any such Offence may have been committed, save and except such Offences as are subject, under this Ordinance, to Banishment from the Frontier Districts, which shall be cognizable before the Boards of Landdrost and Heemraden ; and all Forfeitures and Penalties incurred under this Ordinance shall be sued for and recovered by the Public or

other Prosecutor, and shall belong and be given—One Half to the Informer, and One Half to the Colonial Treasury.

XII. And it is hereby further enacted, That the several Proclamations and Ordinances hereinafter mentioned, relative to the Intercourse, Trade, or Commerce, with the Nations beyond the Boundaries of this Colony ; that is to say, the Proclamations of the 8th December, 1739—26th April, 1770—5th April, 1774—2nd April, 1812—20th July, 1821—18th September, 1822—14th March, 1823—28th November, 1823—23rd July, 1824—27th January and 29th April, 1825 ; and the Ordinances of His Excellency the Governor in Council (Nos. 4 and 16), dated 21st June and 17th November, 1825,—shall be repealed, and they are hereby repealed accordingly,—save and except so far as the said Proclamations and Ordinances, or any of them, repeal any former Proclamations or Ordinances, or any clause, matter, or thing therein contained.

God save the King !

Given at the Cape of Good Hope, this 11th Day of September, 1826.

By Command of His Honor the Lieutenant-Governor,

(Signed) R. PLASKET, Secretary to Government.

By Order of the Council,

(Signed) D. M. PERCEVAL, Clerk of the Council.

[Original.]

*Letter from MR. JOHN FOURNIER to R. W. HAY, ESQRE.*

4 EBURY STREET, CHELSEA, 11th September 1826.

SIR,—Being persuaded it is now in my power of giving stronger conviction to the truth of the assertions which I had the honor to lay before Earl Bathurst on the 15th of September 1825, if you will have the goodness to grant me an interview for the purpose, and I humbly trust it may meet with your

approbation when I assure you that it is the urgency of my situation alone which compels me to make the request, and for which I should feel truly grateful, I am &c.

(Signed) JOHN FOURNIER.

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[Office Copy.]

*Letter from* EARL BATHURST *to* MAJOR-GENERAL BOURKE.

DOWNING STREET, LONDON, 12 *September* 1826.

SIR,—In order to enable me to come to a final decision upon an application which has been received from Lieutenant White for a Grant of Land at the Cape of Good Hope, I have to instruct you to give directions to the Landdrost of Albany to inspect with a Heemraad the original Grant which was made to Lieutenant White ; and to prepare for my information a Minute Report specifying how far the land had been brought into cultivation, and how far Lieutenant White has acted in conformity with the several conditions upon which the land was granted to him. I am &c.

(Signed) BATHURST.

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[Original.]

*Letter from* MAJOR-GENERAL BOURKE *to* EARL BATHURST.

GOVERNMENT HOUSE, CAPE TOWN, 12th *September* 1826.

MY LORD,—I regret to have to inform your Lordship that the Drostdy House at George was burnt down on the night of the 20th July last, and that the Landdrost of that District has by this accident incurred a very severe, and to him most ruinous loss of property, as your Lordship will perceive by the documents accompanying this letter, in which I have included a Memorial transmitted to me from the Inhabitants of George Town on the occasion, and I feel it my duty to recommend



Mr. Van der Riet's case to your Lordship's favourable consideration, as deserving of the benevolent assistance of His Majesty's Government.

It is my intention to have an estimate made of the expense of rebuilding the Drostdy House in a plain substantial manner, and as this is a work of absolute necessity, I shall take advantage of the approaching fine season to commence it, as any delay would only increase the expense in lodging money which must be granted to the Landdrost until he can be provided with accommodation by the Public. I have &c.

(Signed)      RICHD. BOURKE.

[Enclosure 1 in the above.]

GEORGE TOWN, 25th August 1826.

SIR,—With reference to your letter of the 18th Instant I beg leave to express my most grateful acknowledgment for His Honor the Lieutenant Governor's intention of recommending to Lord Bathurst that some remuneration may be made to me for the loss of private property I sustained by the burning of the Drostdy House.

Having never kept an inventory of all the articles that were stored upstairs in said house, it is therefore rather a difficult task to give you a detailed account of the full extent to which I have suffered ; however it is already ascertained by a List in which I have specified every article that I am positively sure I lost on that awful occasion (calculated at prime cost according to receipts in my possession, or their moderate value) that my loss, exclusive of such articles as I am as yet unable to bring to my memory, amounts to between Fifteen and Seventeen Thousand rixdollars, which I do hereby most solemnly declare to the best of my knowledge.

I think it necessary to add that some days before this misfortune happened every article of any value was brought upstairs, not only because I was proceeding to Mossel Bay with Mrs. Van der Riet and family, but especially in consequence of the dampness below ; and as we had but two days before the conflagration returned home, and been prevented by circumstances from bringing the goods below again, I therefore

lost almost every article I possessed, even Mrs. Van der Riet's clothing and that of the children was also consumed. With the highest respect I have &c.

(Signed) J. W. VAN DER RIET, Landdrost.

The Honorable Sir Richard Plasket, Knight,  
Secretary to Government.

[Enclosure 2 in the above.]

To His Honor Major-General Richard Bourke, C.B., Lieutenant Governor, &c., &c., &c., in Council.

The Memorial of the Inhabitants of George most respectfully sheweth

That your Memorialists, deploring the destructive fire which broke out unexpectedly in the Drostdy House on the evening of the 28th ultimo and notwithstanding every effort to keep it under consumed the whole of the building and destroyed property belonging to our worthy Landdrost upwards of Rds. 20,000 in value, this we feel the more painful as we are wholly unable to remunerate his loss or afford him that assistance which this melancholy occurrence has rendered necessary.

Our sense of obligation to our beloved Magistrate impels us to pray your Honor in Council to take this case into your immediate consideration, and we feel confident that you will not permit a most deserving man with his large family to be embarrassed by an event which we are confident he was ever most careful to prevent.

Your wisdom we trust will suggest to you the necessity of speedily taking the necessary steps for having the Drostdy rebuilt in a substantial manner.

We further beg to suggest the necessity of repairing the church, and to express our confident hope that your Honor will consider the incalculable loss we sustain in being now nearly three years without a minister, and be pleased to grant us the first appointment.

Confiding in your Honor in Council's taking our prayers into your immediate consideration and performing at the same

time an act of benevolence and justice, your Memorialists will ever as in duty bound pray &c.

George Town, 21st August 1826.

(Signed)	MICHAEL O'CONNELL	D. E. BERGH
	R. CRAILL	J. SCHONKEN
	C. H. HEINE	GEORGE HAYWARD
	WILLIAM DAWSON	C. KLERK
	B. VAN BEET	J. M. VAN ROOYEN
	J. S. MEESER	J. K. DONALDSON
	J. FOTHERINGHAM	H. F. JONCK
	M. J. VAN DER HOVEN	J. H. ROSS
	B. MASSYN	JOHAN GERHARDUS EHLERS
	WEDUWE BREDEKEYD	J. M. ROSSLEE
	WIDOW ROSSLEE	J. L. LOCK
	W. A. SMUTS	F. DOYLE
	P. A. DEREUCK	

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[Original.]

*Letter from MAJOR-GENERAL BOURKE to EARL BATHURST.*

GOVERNMENT HOUSE, CAPE TOWN, 12th September 1826.

MY LORD,—In reply to that part of your Lordship's despatch of the 8th March last in which your Lordship is pleased to approve of the arrangement adopted by Lord C. Somerset for regulating the establishment of the South African Library, and to inquire what sum it is proposed to allow that Institution for the purchase of Books, I would propose that the sum of £500 per annum should be granted to the Committee to cover all the expenses of the Library both in fixed Establishment and purchase of Books.

Lord C. Somerset on diverting the amount of the duties levied in the Gauger's office from the Committee of this Library to the Colonial Treasury, did not repeal the Proclamation of the 20th March 1818, which grants them to the former ; and as the repeal or consolidation of these duties forms part of the financial arrangements to be submitted for your Lordship's

decision, I have not thought it right to make any change at present. The question however being thus left in an unsettled state has caused a protracted discussion with the Committee, to which I would propose to put an end by obtaining your Lordship's permission to grant the Committee at the rate of £500 per annum from their funds now in hand commencing from the 30th June 1825, from which date the proceeds of the gauging duties have been paid into the Treasury.

These duties produced for the year ending 30th June 1826 the sum of £950 6s. 6d., from which there have been paid to the Library £308 5s. 6d., leaving a balance in favor of the Committee of £642 1s. I would propose that this sum and whatever else may accrue whilst the gauging duties remain vested by law in the Committee shall form a fund from whence, after payment of certain sums due by the Committee, to issue annually £500 to the Library.

When the Proclamation of the 20th March 1818 shall be repealed there will be means in hand to continue the allowance of £500 for some time longer, and on these being exhausted I would propose that an annual grant to the same amount should be made from the Colonial Treasury. I have &c.

(Signed)      RICHD. BOURKE.

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[Original.]

*Letter from MAJOR-GENERAL BOURKE to EARL BATHURST.*

GOVERNMENT HOUSE, CAPE TOWN, 12th September 1826.

MY LORD,—I have received applications from the Landdrosts of most of the Districts in this Colony for permission to purchase fire engines for the use and at the expense of their Districts.

As there are none to be procured in this Colony, and as the amount of expense will be considerable, I have deemed it right to communicate with your Lordship on the subject, and to submit to you the expediency of allotting two fire engines to each District and one to each Sub-Drostdy and Residency. There can be no doubt as to the necessity of them, as all the houses in the Country Districts are covered with thatch.



Should your Lordship approve of this suggestion I have further to request that you will authorise the Agent for the Colony to procure these engines, and to send them out with as little delay as possible.

I think sixteen will be sufficient, as some of the Districts (Graaff Reinet and Stellenbosch) are already provided with them.

I annex a description of the engines required as contained in an account of one furnished in England for the District of Graaff Reinet. I have &c.

(Signed) RICHD. BOURKE.

[Enclosure in the above.]

A strong fire Engine fitted with mahogany cistern mounted on spoke wheels, fore locking carriage to which shafts may be attached and drag handle, the whole painted green relieved vermillion . . . . .	£88	14	0
Three section pipes with spiral worms, brass screws, and a copper rose . . . . .	10	10	0
Two dozen 2 gallon leather buckets with copper hoops at £6 . . . . .	12	0	0
Three lengths of strong leather hose and brass swivel screws at £7 . . . . .	21	0	0
Spare hose pipe and swivel elbow . . . . .	1	10	0
Screw-driver, wrench, and 4 spare copper screws . . . . .	0	14	0
Six pairs of spare leather caps, three sets of spare leather valves, the whole fitted in a box . . . . .	3	16	0
To painting King's Arms and writing in gold Graaff Reinet and date . . . . .	2	7	6
To writing buckets Graaff Reinet and No. 1 . . . . .	1	16	0
To painting a curtage . . . . .	3	1	6
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	£145	9	0

[Office Copy.]

*Letter from* EARL BATHURST *to* MAJOR-GENERAL BOURKE.

DOWNING STREET, LONDON, 13 *September* 1826.

SIR,—Lord Charles Somerset having brought under my notice the situation in which Lieutenant Pedder is placed by the appointment of Lieutenant Bance to be Port Captain at Table Bay (the duties of which Office have been lately performed by Lieutenant Pedder) I am desirous, in consideration of the high character which that officer bears, that he should be relieved from his present unfortunate circumstances; and I have, therefore, to instruct you to take the earliest opportunity which may offer of appointing Lieutenant Pedder to a situation which may be adapted to his views, and the Salary of which may not exceed that of the Office which he lately held under the Captain of the Port. I am &c.

(Signed) BATHURST.

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[Original.]

*Letter from* MAJOR-GENERAL BOURKE *to* EARL BATHURST.

GOVERNMENT HOUSE, CAPE TOWN, 13th *September* 1826.

MY LORD,—In transmitting to your Lordship the accompanying Memorial and notarial documents from Messrs. Chiappini & Co. I have the honor to inform you that in the decisions which have been given upon the various Memorials, this Government has been guided by the opinion of Council and by the legal advice of His Majesty's Fiscal.

As to the neglect of not taking security from Mr. Stœdel when he was removed from Graham's Town and appointed Vendue Master at Uitenhage in 1820, it certainly was an oversight on the part of Government, but should your Lordship think that from this neglect the Government becomes responsible for the amount of the security which ought to have been taken on the occasion of Mr. Stœdel's appointment, viz. 10,000 rixdollars, such amount must go to the benefit of the Vendue creditors generally, and Messrs. Chiappini & Co. can only share with the rest. I have &c.

(Signed) RICHD. BOURKE.

[Enclosure 1 in the above.]

To the Right Honorable Earl Bathurst, Secretary of State for  
the Colonial Department, &c., &c., &c.

The Memorial of Anthony Chiappini & Company of Cape Town, Cape of Good Hope, on behalf of their Co-partners Peter Heugh and Company of Uitenhage, Merchants, humbly sheweth

That in the Month of November 1824 your Memorialists were bonâ fide holders of a Vendue Extract to the amount of Rixdollars 12,752, signed by Francis Henry Stœdel, late Vendue Master appointed by the Government of this Colony for the district of Uitenhage, which extract became due on the 7th of the said month.

That on presenting the said Vendue Extract to the said Francis Henry Stœdel, he declared (to your Memorialists' surprise) that he had not the means of paying the amount.

That on the 14th day of the said month your Memorialists caused a statement of their grievances to be addressed to his Excellency the Governor of this Colony, and on the 10th day of December following received a reply thereto "that Mr. Stœdel being no longer in the Government service Memorialists could only have their remedy at law," attested copies of which statement and reply your Memorialists have the honor to annex.

That this reply having excited considerable apprehension in the minds of the Merchants of this Town, the Committee of the Commercial Exchange on the 13th of December presented a Memorial to His Excellency the Governor praying that he would be pleased to inform them for the guidance of the Merchants in general whether Government was or was not responsible for the amount of Sales by Public Vendue.

That on the 28th January 1825 the said Committee received a reply to said Memorial, stating, among other things, that His Excellency had no hesitation whatever in declaring that the Government of this Colony was responsible for all monies due upon the Sales of Goods by the Vendue Master &c., but to remove all doubt upon the subject His Excellency would issue a proclamation relative thereto.

That the said proclamation was issued on the 22nd day of April following, and your Memorialists have the honor to refer your Lordship to attested copies of the said Memorial and reply, also to the *Gazette* containing the proclamation.

That your Memorialists, at the suggestion of the Government of this Colony, caused proceedings to be instituted in the Worshipful the Court of Justice of this Colony, against the said Francis Henry Stœdel, and they obtained a sentence in due course for 12,752 Rixdollars with interest and costs, which was delivered to the Sequestrator for execution, but in consequence of delay in the Sequestrator's Department, the great inconvenience your Memorialists experienced, and the probability that public confidence would be shaken in the established mode of holding Sales in this Colony if the amount was not received from Stœdel, on the 25th day of March 1825 they presented a Memorial to His Excellency the Governor complaining thereof, and praying for the reasons therein stated that he would be pleased to direct immediate execution of the sentence without further delay, &c.

That after this, much delay and difficulties were thrown in the way of its liquidation, whereby your Memorialists were deprived of the use and disposal of this important sum of Money for a considerable time.

That on the 22nd day of December 1825 they received Rds. 2,870, on the 25th January 1826 the further sum of Rds. 4,400, and on the 20th February the further sum of Rds. 2,225 6sks., making together the sum of Rds. 9,495 6sks, on which they were obliged to reimburse to the Sequestrator the sum of Rds. 10 7 2, being the deficiency of Assets of the said Stœdel's Estate, and leaving a balance still due to them by said Stœdel of Rds. 4,203 3 2, as will appear to your Lordship on reference to the document hereto annexed.

That your Memorialists addressed a Memorial to His Honor Major General Richard Bourke, the Lieutenant Governor, dated the 9th day of March last, stating the facts and praying that in consideration of the said Stœdel having been appointed to the office of Vendue Master by the Government of this Colony, the said Government having taken Security at the time of his appointment, its acknowledged liability to Individuals suffering through the insolvency of its Vendue



Masters as stated in the exhibit before referred to, that His Honor would direct the aforesaid deficiency of Rds. 4,203 3 2 to be forthwith paid to your Memorialists out of the Colonial Treasury.

That on the 16th of said month of March your Memorialists received a reply to said Memorial, by which they were informed that the Government was not responsible for the deficiencies of the Vendue Master previous to the aforesaid proclamation of the 22nd April.

That this answer being in direct contradiction to the aforesaid reply of His Excellency to the Commercial Exchange, and your Memorialists attributing it to the fact of that answer having been given previously to the formation of a Board of Council, and that that Honorable Board might not have been aware of the answer so given, did on the 26th of the said month of March address another Memorial to His Honor the Lieutenant Governor in Council, praying that His Honor would be pleased to reconsider their case, and direct them to be paid out of the Funds of the Colonial Treasury.

That on the 29th day of said month of March your Memorialists received a reply to said last-mentioned Memorial from the Secretary to the Government of the Colony, enclosing a copy of the resolution of Council, together with copies of the correspondence therein alluded to, to the whole of which your Memorialists most respectfully refer your Lordship.

That your Memorialists finding that they had received an erroneous impression as to the liability of Government, that their claim on it could not be acceded to, and being again referred to such legal redress in the competent Courts, applied by letter to the Colonial Government for a copy of the Bond of Security entered into by Mr. Stœdel when he obtained the office of Vendue Master for the District of Uitenhage, in order that they might see what remedy (if any) they had against his Securities, and received a reply from the Secretary to the said Government, enclosing the copy of a Bond which appeared to be a Bond of Security for the Sub-Drostdy of Graham's Town, instead of the one your Memorialists had applied for, namely for the District of Uitenhage, which circumstance they immediately communicated to such Secretary, and received a letter in reply that it did not appear from the records of the

Colonial Office that any security was entered into by Mr. Støedel except that of which your Memorialists received a copy, but that he (the Secretary) had written to the Landdrost of Uitenhage to know whether he was aware of any additional security having been entered into by Mr. Støedel when he was appointed Secretary and Vendue Master of Uitenhage. By a letter which your Memorialists have subsequently received from the Secretary to said Government, it appears that no additional security was entered into.

Your Memorialists having thus ascertained that no additional security was entered into on behalf of the said Støedel on his second appointment, again addressed themselves to the Secretary to Government of this Colony, and requested to be informed whether it was the opinion of the Board of Council that the only and original Bond was considered as Security for the performance of his (Støedel's) duties as Vendue Master of the full Drostdy of Uitenhage, and in reply thereto received a letter from him enclosing a copy of a letter from His Majesty's Fiscal, containing his opinion on this subject, whereby it appears that the security does not extend to the performance of his (Støedel's) duties as Vendue Master of Uitenhage, and that a new security ought to have been required.

Your Memorialists most respectfully beg leave to condense the facts herein stated, and to call the attention of your Lordship thereto, as follows :—

That said Francis Henry Støedel was an Officer appointed by the Government of the Colony.

That the said Government by its official letter to the Committee of the Commercial Exchange of the 28th of January 1825 has acknowledged its liability.

That your Memorialists have resorted to legal proceedings, at the suggestion of the Government, for the recovery of their just demand, and notwithstanding find themselves minus Rds. 4,203 3sks. 2sts.

That on applying for a copy of the Bond of Security to enable them to proceed, they find that the Colonial Government has neglected this part of its duty, and no available security taken from the said Støedel, by which means they are deprived of the only possible chance of securing to themselves the due payment of the aforesaid sum of Rds. 4,203 3 2.

Your Memorialists most humbly pray that your Lordship will take all the circumstances of the case into your Lordship's serious consideration, and finding that they are sufferers to the amount of Rds. 4,203 3 2 by the insolvency of Francis Henry Stœdel in his capacity as Vendue Master appointed by the said Government of the Colony, and by the neglect of the said Government in taking proper security, cause them to be paid by the Government of this Colony, or afford them such other ample and speedy redress as to your Lordship shall seem meet.

And your Memorialists as in duty bound will ever pray.

(Signed) A. CHIAPPINI & Co.

CAPE TOWN, CAPE OF GOOD HOPE, 19th August 1826.

[Enclosure 2 in the above.]

CASTLE STREET, CAPE TOWN, 14th November 1824.

MY LORD,—I am directed by Messrs. P. Heugh & Co. of Graham's Town, Merchants, to submit to Your Excellency the following circumstances :

Messrs. Peter Heugh & Co. are the holders of a Vendue Extract accepted by Mr. Stœdel, late Vendue Master of Uitenhage, whereon the sum of Rds. 12,752 became due on the 7th inst.

The Vendue Extract was presented at Mr. Stœdel's house, and he being absent without having appointed any person to pay it, the Extract was protested for non-payment.

Messrs. P. Heugh & Co. not being willing to proceed to extremities called upon Mr. Stœdel on his return from Uitenhage, and requested payment of the Vendue Roll, when to their surprize Mr. Stœdel informed them that he had not the means of paying the amount.

Messrs. P. Heugh & Co. have commenced legal proceedings against Mr. Stœdel, but the regulations of the Worshipful Court of Justice prevent their obtaining sentence in less space of time than two months or thereabouts.

Mr. P. Heugh was acting Landdrost when Mr. Stœdel was prosecuted for disrespectful conduct to the Landdrost, and however unwilling he would be to impute motives of

revenge to any one, the train of annoyances to which Messrs. P. Heugh & Co. have met with from Mr. Støedel compel him to believe that feelings of resentment rather than poverty will induce this gentleman to defer payment of the Vendue Roll to the latest moment the Law will allow him.

Messrs. P. Heugh & Co. are conscious of the impropriety of asking Your Excellency to interfere with the routine of business in the Court of Justice, but as the sum at stake is considerable, and the risk to which it is exposed is occasioned by the improper conduct of a person lately in a Government office, they venture to hope Your Excellency, seeing the hardship of their case, will be pleased to direct the Landdrost of Uitenhage to render them every assistance in his power in enforcing payment of their just debt. I am &c.

(Signed)      HERBERT PUGH.

To His Excellency the Governor.

[Enclosure 3 in the above.]

Reply to the Memorial of Mr. H. Pugh on behalf of Messrs. Heugh & Co., complaining of Mr. Støedel, the late Vendue Master of Uitenhage, having failed to settle with Messrs. Heugh & Co. for the proceeds of a sale effected on their account amounting to Twelve Thousand Seven Hundred and Fifty-two Rixdollars.

The Memorialist is informed that Mr. Støedel being no longer in the Government service, Messrs. Heugh & Co. can only have their remedy at law, but his Sureties have been called upon by the Law Officer of the Crown to make good the amount of their Bond, viz. Ten Thousand Rixdollars, which they have forfeited by Mr. Støedel's neglect.

Colonial Office, 10th December 1824.

By His Excellency's command.

(Signed)      RICHD. PLASKET, Secretary to Government.



[Enclosure 4 in the above.]

To His Excellency the Right Honorable General Lord Charles Henry Somerset, Governor and Commander in Chief at the Cape of Good Hope, &c., &c., &c.

The Memorial of the Committee of the Commercial Exchange respectfully sheweth

That it has been hitherto understood by the Merchants of this Colony that they had the Security of Government for the payment of all Monies due upon the Sales of Goods effected by the Commissioners of Vendue and the different Vendue Masters, but considerable apprehension has been excited by the terms of an answer from the Secretary to Government to a Memorial presented on behalf of Messrs. Heugh and Co., and as it is a matter of the highest importance to the Trade of this Colony that the question should be set at rest,

Memorialists respectfully pray that your Excellency will be pleased to inform them, for the guidance of the merchants in general, whether Government is, or is not, responsible for the amount of all sales by Public Vendue.

And Memorialists as in duty bound will ever pray.

(Signed)      STEPHEN TWYXCROSS,  
                    W. HAWKINS,  
                    T. P. SIMPSON.

COMMERCIAL EXCHANGE, 13th December 1824.

[Enclosure 5 in the above.]

COLONIAL OFFICE, 28th January 1825.

GENTLEMEN,—In reply to your Memorial addressed to His Excellency the Governor, under date the 13th ultimo, I am directed to acquaint you that His Excellency has no hesitation whatever in declaring that the Government of this Colony is responsible for the payment of all monies due upon the Sales of Goods effected under the Laws and Regulations of this head by the Commissaries of Vendues and the different Vendue Masters appointed by Government, but as a doubt appears to

exist upon the subject, it is His Excellency's intention to issue a Proclamation relative thereto. I have &c.

(Signed) P. G. BRINK.

The Committee of the Commercial Exchange.

[Enclosure 6 in the above.]

*Proclamation by* LORD CHARLES SOMERSET.

Whereas the limited Security given by those Officers of Government appointed to act as Commissaries of Vendues, or Vendue-Masters, may, in some instances, not be adequate to cover the eventual loss of Individuals, in case of insolvency or failure of any such Officer; and whereas the interests of Commerce require that no doubt should exist relative to the Security of the Proceeds of Public Sales effected through the said Officers,—I have thought proper to enact and declare, and it is hereby enacted and declared accordingly, that from and after the date of this Proclamation, the Government of this Colony will hold itself responsible for the Proceeds of all Sales made on account of Individuals by the Commissaries of Vendues or Vendue-Masters, in the event of the insolvency of such Officers, provided such Sales have been made according to Law, and under the Rules and Regulations at present existing, or which may hereafter be proclaimed on that head.

And it is hereby enacted and declared, that Government will not hold itself responsible for the deficiencies of any Commissary of Vendues or Vendue-Masters, unless it be made clearly to appear that the Parties who may have effected any Sales through the Vendue Offices, have demanded payment of the Proceeds of such Sales from the Commissaries of Vendues or Vendue-Masters, on the amount becoming due, or within three days thereof; and unless, in case of the above-mentioned Officers not satisfying such Claims, the Parties shall have reported their default in writing, within five days after the demand shall have been made:—the report to be sent to Government, if the Sale has been made in Cape Town, and to the Landdrost of the respective Districts, if the Sales have taken place in the Country: And the several Landdrosts are hereby

declared to be bound (under their own responsibility for the amount, in case of failure,) to transmit every such report to Government, in duplicate, by the earliest opportunities.

And it is hereby further enacted and declared, that in the event of any Proprietor of Moveable Property sold through the Government Vendue Offices, choosing to give to the Purchasers thereof any Credit in the Payment of the same, (beyond the time usually allowed for collecting the proceeds previously to the Vendue Roll becoming due,) such arrangement, and all responsibility attendant thereon, must entirely rest with the Parties concerned ; and the Proprietor, in such case, must sign his Receipt to the Vendue Roll, as if such Payment had actually been made, and must also satisfy the Commissary of Vendues, or the Vendue-Master, for the Government Fees on such Sale.

And for the greater security of the Interests of Government, under the responsibility which it has hereby declared and assumed, it is further enacted, that the Government shall possess the same privileges and rights over the real and personal Property of any Commissary of Vendues, or Vendue-Master, who may become insolvent, as it now enjoys in the case of all Collectors and Administrators of Public Property ; whilst the Commissaries of Vendues and Vendue-Masters, shall continue in the exercise of the same rights and privileges in regard to individual Purchasers, which they have hitherto enjoyed by the Laws of the Colony.

And in order that all Persons may be aware of the existing Regulations relative to Public Sales effected through the Commissaries of Vendues, or Vendue-Masters, the Heads thereof, with reference to the Proclamations and Instructions on the subject, are hereunto annexed, for general information.

And that no Person may plead Ignorance hereof, this shall be published and affixed as usual.

{ God save the King !

Given under my Hand and Seal, at the Cape of Good Hope,  
this 22nd Day of April, 1825.

(Signed) C. H. SOMERSET.

*Heads of Regulations of Government, relative to Vendue Sales.*

1.—No public Sales are allowed to be made in this Colony but through the Government Vendue Offices, with the exception of those effected by the Orphan Chamber and the Sequestrator, through their own Officers, for the disposal of Property administered by their respective Establishments.

*Vide Regulations for the  
Country Districts,  
Art. 198.*

2.—On the Sale of immoveable Property  $2\frac{1}{2}$  per cent is levied on the part of Government, and on moveable Property 5 per cent—to be deducted from the Vendue Roll or Account.

*Vide Proclamation 2nd  
May, 1806.*

3.—On all moveable Property exposed for Sale, and bought in, by the Proprietor, one half of the established Dues, or  $2\frac{1}{2}$  per cent is exacted; and on all immoveable Property, so exposed for Sale, and bought in, where such Property may be disposed of by private Contract within six weeks after such attempt at public Sale, the same Duties are exacted as would have been levied had such Sale actually taken place through the Vendue Office.

*Vide Circular to Vendue-  
Masters, of the 24th Dec.  
1818.*

4.—On all Sales of moveable Property, payment must be made to the Seller by the Government Commissary of Vendues or Vendue-Master, at the expiration of three Calendar Months, if in Cape Town or Simon's Town, (and of four Months, if in any of the Districts,) from the Day of Sale; but the Commissary of Vendues, or Vendue-Master, must furnish the Seller with the Vendue Roll, (payable at the periods above-mentioned,) as soon as the Sale is closed, signed by him, and written on a Stamp, regulated in value according to the Tariff established by Government.—The Stamp to be paid by the Seller.

5.—On immoveable Property, the general terms of payment are  $\frac{1}{3}$  ready Money,  $\frac{1}{3}$  in twelve Months, and the other  $\frac{1}{3}$  in two Years from the date of Sale;—but other terms are frequently demanded, and are, of course, explained at the Sales. No immoveable Property having incumbrances thereon, can be put up for sale, in the Vendue Offices, unless such incumbrances or claims be specified at the time.



6.—No Commissary of Vendues, Vendue-Master, Auctioneer, or any Person employed in the Government Vendue Offices, shall appear personally as Bidders for any Property sold in their Offices;—nor shall they be allowed, *in any way*, to purchase such Property, under severe Penalties.

7.—No Person shall purchase Goods in the name, or on account of, the Owners thereof, with the view to defraud the Public, under very severe Penalties.

8.—The Vendue Bills made out for individual Purchasers must be upon a Stamp, to be regulated by the Government Tariff; and the Receipt of the Commissaries of Vendues, or Vendue-Masters for the amount, must be made on the Bill itself.

The Commissaries of Vendues, and Vendue-Masters, or the Vendue Clerks acting for them, are allowed to make the following Charges, when called upon to attend Sales in the Country :—

1st, In case the parties holding the Sales do not choose to send their own Waggons, (which they always have the option of doing) an allowance for a Waggon, according to the distance, at the rate established by Government Tariff, is to be charged; as also the established daily allowance for Waggon Hire, (where it is necessary to keep the Waggon) during the period the Vendue Master or Clerk may be detained at such Sales.

But where no Waggon is actually used, and the Vendue Master, or Clerk, and Auctioneer proceed on horse-back, or in any other mode, one half of the above allowance only shall be charged.

2nd, An allowance of five Rixdollars per Diem, for Maintenance of both Vendue-Master (or Clerk), and Auctioneer, during the Days they may be detained at the Place of Sale.

3rd, The usual Allowance for Stamps,—public Notification of the Sale, and Copies of Vendue Roll.

And no other Fee or Charge whatsoever is to be made by the Vendue-Master, Clerk, or Auctioneer.

[Enclosure 7 in the above.]

To His Excellency General Lord Charles Henry Somerset,  
Governor and Commander in Chief, &c., &c., &c.

The Memorial of Antonio Chiappini & Co. of Cape Town on behalf of their Co-partners Peter Heugh & Co. of Uitenhage, Merchants, humbly sheweth

That your Memorialists are bona fide holders of a Vendue Extract to the amount of Rds. 12,752, signed by Francis Henry Støedel, late Vendue Master of the District of Uitenhage, which became due and payable on the 7th day of November 1824.

That on presenting this Vendue Extract to F. H. Støedel, he declared he had not the means of paying the amount.

That Memorialists caused proceedings in the Worshipful Court of Justice to be forthwith instituted, and on the 20th day of January obtained a Sentence condemning Støedel to pay the said sum of rixdollars 12,752 with interest and costs.

That on the 15th day of February this Sentence was delivered to the Sequestrator for Execution.

That on application being made to the Sequestrator, in order to know what had been done, Your Memorialists were informed that the sentence having been forwarded to the Sequestrator's Agent at Uitenhage, said Agent had written and reported, that Mr. Støedel had declared that he possessed no other property to satisfy the claim than certain Rents payable at various periods, some of which not before the expiration of three years, a list whereof the said Agent had forwarded to the Sequestrator.

That your Memorialists having enquired whether these Bonds had been taken in Security for the debt, and whether they would be sold for the account of Støedel in order to pay the sentence, the Sequestrator informed Memorialists that he had consulted the Chief Justice on the point, and that he was told he could not sell these Bonds, but that he should write to his Agent to satisfy himself whether Støedel had no other property than these Bonds.

That by this correspondence, and the apparent want of diligence and proper instructions in the Sequestrator's Department, much delay has taken place, and your Memorialists entertain fears that unless energetic measures are pursued,

an opportunity will be afforded to the adverse Party further to evade the settlement of the claim.

That the debt due to Memorialists being upon a Vendue Extract, a Security hitherto current amongst Merchants as the Notes of the Government Bank, the delay in discharging it is fraught not only with great inconvenience to Memorialists, but is likely to shake the Public confidence in the established mode of holding sales in the Colony ; and if the amount be not recovered from Stœdel, Memorialists will be compelled to look to the justice of Government for payment and indemnification, as the Person withholding from them the proceeds of their Sales was a Government Servant at the time this Property was confided to him.

Memorialists therefore pray that your Excellency will be pleased to direct immediate execution of the sentence, without any further delay, and that every assistance consistent with the Laws of the Colony may be rendered to your Memorialists to enforce their just demand.

And your Memorialists will ever pray &c.

(Signed) A. CHIAPPINI & Co.

CAPE TOWN, 25th March 1825.

[Enclosure 8 in the above.]

Reply to the Memorial of Messrs. A. Chiappini & Co., complaining of delay in the Sequestrator's Department in executing a sentence lodged there, condemning the late Vendue-Master of Uitenhage in the payment with Interest and Costs of a Sum of Twelve Thousand Seven Hundred and Fifty Two Rixdollars, due by him upon a Vendue Extract to Messrs. P. Heugh & Co.

Memorialists are informed that their Memorial having been referred to the Worshipful the Court of Justice, it appears that steps are now taking for the protection of their interests, which they will perceive from the enclosed Copy of the Court's Report.

Colonial Office, 9th May 1825.

By His Excellency the Governor's Command.

(Signed) RICHD. PLASKET,

Secretary to Government.

[Enclosure 9 in the above.]

CAPE TOWN, 26th April 1825.

MY LORD,—In compliance with Your Excellency's desire contained in a letter from the Colonial Office, dated the 31st Ultimo, respecting a complaint preferred by Messrs. Chiappini & Co. of a delay on the part of the Sequestrator in the execution of a Sentence obtained by them against Mr. F. H. Stœdel, the late Vendue Master, we have the honor to report that it has appeared to us on enquiry that the Sentence in question was transmitted by the Sequestrator to his Agent at Uitenhage the same day it was delivered into the Office here in Town, and that the agent immediately proceeded to take steps for the recovery of the amount, but Stœdel having offered Bonds due at different periods in payment, and at the same time declared that he did not possess any other property, this seems to have caused some delay, as the Agent was in doubt how he should act, and therefore wrote to the Sequestrator for instructions, which having been sent him, we have every reason to suppose that the Agent has by this time adopted the necessary measures in which regard the Assistant Sequestrator engaged to inform himself by the last post. We have &c. &c.

(Signed) J. A. TRUTER.

His Excellency Lord C. H. Somerset.

[Enclosure 10 in the above.]

Extract from the Amount of the Liquidation of an Executorial Sale held on the 14th November 1825 on account of François Henry Stœdel, for the settlement of a Sentence in favor of P. Heugh & Co.

To Government and to Peter Heugh & Co. :

As per Sentence dated 20th January 1825	Rds.	12,752	0	0
Interest on Rds. 12,752 from 7 Nov. 1824 to 22 Dec. 1825		860	6	0
Do. on Rds. 9,882 from 23 Dec. 1825 to 25 Jan. 1826		52	5	4
Do. on Rds. 5,482 from 26 Jan. to 20 Feb. 1826		22	6	2
	Rds.	13,688	2	0



Whereon they are to receive the balance of the Proceeds :

Cash . . . . .	Rds. 7,259	0	4	
And a Notarial Bond due by the Firm of P. Heugh & Co. to Stœdel with Interest . . . . .	2,225	6	0	9,484 6 4

Deficiency on that Sentence . . . . .	Rds. 4,203	3	2
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Capital and Interest to be paid to P. Heugh & Co.	Rds. 9,484	6	4
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Received by them on Account :

22 Dec. 1825 Cash . . . . .	Rds. 2,870	0	0
25 Jan. 1826 Do. . . . .	4,400	0	0
20 Feb. 1826 Notarial Bond with Interest as per credit side . . . . .	2,225	6	0
			9,495 6 0

To be reimbursed by P. Heugh & Co. . . . .	Rds. 10	7	2
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As no other funds belonging to F. H. Stœdel remain in the hands of the Sequestrator wherefrom the aforesaid deficiency may be recovered, and he having declared not to be possessed of any other Property excepting two Slave Girls named Anna and Samita, mortgaged to P. Rocher for the sum of Five Thousand Rixdollars, the aforesaid P. Heugh & Co. are at liberty to adopt such measures against the Debtor for the recovery of the same as they may deem necessary.

A true Extract.

(Signed) J. E. MESTAER.

[Enclosure 11 in the above.]

To His Honor Major General Richard Bourke, C.B., Lieutenant Governor, &c., &c., &c.

The Memorial of A. Chiappini & Co., Partners in the House trading under the Firm of Peter Heugh & Co. at Uitenhage and elsewhere, Humbly Sheweth

That Memorialists having been obliged to proceed at Law against the late Vendue Master of the District of Uitenhage

François Henry Stœdel, for the payment of a Vendue Roll due to Memorialist on account of a Public Sale held by the said Stœdel in his aforesaid capacity, did obtain a Sentence against him, bearing date the 20th day of January 1825, for an amount of 12,752 rixdollars. That this Sentence having been handed over to the Sequestrator for execution in the usual manner, many delays and difficulties have been thrown in the way of its liquidation, whereby your Memorialists have been deprived of the use and disposal of this important sum of money for a considerable time, the first cash received on account of it being on the 22nd of December 1825, when Memorialists received from the Sequestrator the sum of rixdollars 2,870, the second on the 25th day of January 1826, and the third or last on the 20th day of February being their own Bond bearing interest and amounting to rixdollars . . . 2225 6

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rixdollars 9495 6

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in which they were obliged to reimburse the sum of rixdollars 10 7 2 being the deficiency of assets of the estate, making the whole amount received from the Sequestrator rixdollars 9,484 6 4, which leaves a deficiency or balance still due to them by Stœdel of rixdollars 4,203 3 2, and the said Stœdel having declared that he possessed no other Property wherewith to liquidate the aforesaid balance, excepting two slave girls already mortgaged for a sum of five thousand rixdollars, all which is proved by certificate of the Sequestrator hereunto annexed, your Memorialists have therefore been advised humbly to address your Honor and the Colonial Government, by whom the said Stœdel had been appointed to the Office of Vendue Master, and from whom Government has taken security at the time of his appointment, and further to pray that in consideration of the aforesaid circumstances, and of the acknowledged liability of Government to Individuals suffering through the insolvency of its Vendue Masters, as stated in an official Letter to the Commercial Committee, bearing date 28th January 1825, Your Honor may be pleased to order and direct that the aforesaid deficiency or balance of rixdollars 4,203 3 2 may be forthwith paid to Memorialists out of the Colonial Treasury, adopting at the same time such

measures against the securities of the said Vendue Master Stœdel as Government has a right to do, and may deem proper.

And Memorialists as in duty bound will ever pray &c.

(Signed) A. CHIAPPINI & Co.

CAPE TOWN, *the 9th March*, 1826.

[Enclosure 12 in the above.]

Reply to the Memorial of Messrs. A. Chiappini & Co. praying that a debt of Rds. 4,302 3 2 due to them from the Insolvent Estate of the late Vendue Master of Uitenhage may be liquidated by the Colonial Government.

The Memorialists are informed that the Government was not responsible for the deficiencies of the Vendue Master previous to the Proclamation of 22nd April last.

Colonial Office, 16th March 1826.

By command of His Honor the Lieutenant Governor.

(Signed) RICHD. PLASKET,  
Secretary to Government.

[Enclosure 13 in the above.]

To the Honorable the Lieutenant Governor in Council.

The Memorial of A. Chiappini & Co. of Cape Town, Merchants, on behalf of Messrs. Peter Heugh of Uitenhage, Merchants and Traders, Humbly Sheweth

That your Memorialists are holders of a certain Vendue Roll for Sales held by François Henry Stœdel, late Vendue Master of Uitenhage, for the sum of Rixdollars 12,752, and which fell due on the 7th November 1824.

That this Vendue Roll not being duly paid, your Memorialists, relying upon the presumed responsibility of Government for sums due upon Vendue Rolls, made application to His Excellency the Governor for payment of the same, and were informed in reply "That Mr. Stœdel being no longer in the Service of Government, Messrs. P. Heugh & Co. had only their remedy at Law, but that his sureties had been called upon by the Law

Officers of the Crown to make good the amount of their Bond, rixdollars 10,000, which they had forfeited by his neglect."

Your Memorialists beg to enclose a Copy of this answer, which is dated the 10th December 1824, and to declare at the same time that they are not aware if the sureties have paid the amount of their forfeited Bond.

That the answer here alluded to having excited considerable apprehension in the minds of the Merchants at large, as to whether they really had the security of Government for Sales by Vendue or not, a Memorial was presented to His Excellency the Governor, praying to be informed on that head. Your Memorialists beg to lay before your Honor a Notarial Copy of this Document, together with the answer thereto, which is dated the 27th January 1825.

That your Memorialists having according to the suggestion of Government proceeded by the usual course for the recovery of the debt, did after considerable delay receive from the Sequestrator on account thereof the sum of rixdollars 9,484 6 4, leaving a balance still due to them of Rixdollars 4,302 3. 2.

That your Memorialists applied to the Colonial Government for payment of this deficiency, which was rejected, not upon the plea "that Stœdel was no longer in the service of Government," but "That Government was not responsible for the deficiencies of Vendue Masters previously to the Proclamation of 22nd April 1825."

That this answer being in direct contradiction to the reply of His Excellency to the Merchants before alluded to, your Memorialists are inclined to attribute it to the fact of that answer having been given previously to the formation of a Board of Council, and that Honorable Board might not be aware of the answer so given.

Your Memorialists therefore humbly pray that your Honor will be pleased to reconsider this case, and they humbly trust that your Honor will be convinced of the Justice of their request, and direct them to be paid out of the Funds of the Colonial Treasury.

And your Memorialists as in duty bound will ever pray &c.

(Signed) A. CHIAPPINI & Co.



[Enclosure 14 in the above.]

COLONIAL OFFICE, 29th March 1826.

GENTLEMEN,—His Honor the Lieutenant Governor having been pleased to submit to the consideration of Council your Memorial under date the 20th instant claiming from Government the balance remaining due on your account with the late Vendue Master of Uitenhage, I am directed by His Honor to forward for your information a copy of the Resolutions of Council on the subject. I have &c.

(Signed) RICHD. PLASKET,  
Secretary to Government.

Messrs. A. Chiappini & Co.

[Enclosure 15 in the above.]

See Proceedings of the Council, 28th March 1826.

[Enclosure 16 in the above.]

COLONIAL OFFICE, 17th December 1824.

SIR,—His Excellency the Governor has directed me to transmit to you the accompanying copy of a Memorial which has been presented to him by the Committee of the Commercial Exchange, requesting to be informed, for the guidance of the Merchants, whether the Government is or is not responsible for the payment of all monies due upon sales of goods effected by the Commissaries of Vendue and the different Vendue Masters appointed by Government, in order that you may favour His Excellency with your legal opinion on the same.

I have &c.

(Signed) RICHD. PLASKET,  
Secretary to Government.

D. Denyssen, Esqre., His Majesty's Fiscal.

[Enclosure 17 in the above.]

FISCAL'S OFFICE, 27th December 1824.

SIR,—In compliance with His Excellency the Governor's directions communicated to me in your letter of the 17th instant requesting my legal opinion on the question whether the Government is or is not responsible for the payment of all monies due upon the sales of goods effected by the Commissaries of Vendues and the different Vendue Masters appointed by Government, I have the honor to state for the information of His Excellency that I am, under correction, of opinion that the Government is not responsible for the payment of the said monies. I have &c.

(Signed) D. DENYSSEN, Fiscal.

Sir Richard Plasket, Kt.

[Enclosure 18 in the above.]

CAPE TOWN, 5th April 1826.

SIR,—As we are parties interested in the Estate of the late Vendue Master of Uitenhage, Mr. François Henry Stœdel who has declared himself to the sequestrator to be possessed of no property wherewith to discharge the balance of our claim against him in his aforesaid capacity of Vendue Master, we humbly request to be furnished at our own expence with a copy of the Bond of Security entered into by Mr. Stœdel when he obtained the office of Vendue Master from Government.

We have &c.

(Signed) A. CHIAPPINI & Co.

Sir Richard Plasket, Kt.

[Enclosure 19 in the above.]

COLONIAL OFFICE, 11th April 1826.

GENTLEMEN,—In reply to your letter of the 5th instant, I am directed by His Honor the Lieutenant Governor to transmit

to you herewith, agreeably to your request, a copy of the Bond of Security which was entered into for the faithful discharge of the trust reposed in Mr. Stœdel as Vendue Master in the Uitenhage District. I have &c.

(Signed) RICHD. PLASKET,  
Secretary to Government.

Messrs. Chiappini & Co.

[Enclosure 20 in the above.]

MR. FRANÇOIS HENRY STœDEL.

This day being the 30th day of November 1819, before me Peter Gerhard Brink, Chief Assistant in the Colonial Secretary's Office, and in the presence of the Witnesses hereinafter named, personally appeared Messrs. Daniel van Reenen, D. G. Son, and Johannes Rothenbach, who declared to constitute themselves Securities in solidum on behalf of His Majesty's Government, as well as on that of the Sellers, as far as it regards their claims, that Mr. François Henry Stœdel, the Vendue Master at the Sub-Drostdy of Graham's Town, shall faithfully perform the duties of his said employment, they binding themselves that in the event of the said F. H. Stœdel appearing to have any wise been deficient in his duty, they shall then compensate and pay unto said Government, or to the said sellers, all and every damage which shall appear to have been occasioned unto the same through the neglect or other misconduct of the said F. H. Stœdel, to the concurrency of ten thousand rixdollars, which security is to continue and stand good until his last conclusive accounts shall have been delivered and approved. The Appearers moreover renouncing the *beneficio ordinis divisionis et excussionis*, and declaring to be perfectly acquainted with the effect of such renunciation, and also promising to indemnify each other for their mutual share.

There also personally appeared the said François Henry Stœdel at Graham's Town, who promised fully to indemnify the said Securities for any damage they may suffer in consequence of their having constituted themselves by the present Deed his Securities, the Appearer binding (for the due performance thereof) his Person and Property according to Law.

Thus done and executed in the Colonial Secretary's Office,  
day, month, and year as aforesaid, in the presence of

(Signed) D. VAN REENEN, D.S.,  
JOHS. ROCHENBACH,  
F. H. STÖDEL.

[Enclosure 21 in the above.]

CAPE TOWN, 17th April 1826.

SIR,—We have the honor to acknowledge receipt of your letter of the 11th instant stating that you had at our request annexed a copy of the Bond of Security which was entered into for the faithful discharge of the trust reposed in Mr. F. H. Stödel as Vendue Master in the Uitenhage District.

We beg to return our thanks for the prompt attention which has been paid to our request, and at the same time to state that it appears that the Bond of Security for the Sub Drostdy of Graham's Town has by mistake been copied instead of the one intended to be forwarded, viz. that for the District of Uitenhage.

We shall feel ourselves obliged if you will be pleased to furnish us with copy of the Bond in question, viz. that which was given by Mr. F. H. Stödel when he entered upon the duties of Vendue Master of Uitenhage. We have &c.

(Signed) A. CHIAPPINI & Co.

Sir Richard Plasket, Kt.

[Enclosure 22 in the above.]

COLONIAL OFFICE, 20th April 1826.

GENTLEMEN,—I am directed by His Honor the Lieutenant Governor to inform you that it does not appear from the records of this office that any Security was entered into by Mr. Stödel except that which I have already forwarded to you, and which relates to his situation as Vendue Master at Graham's Town.

I have however written to the Landdrost of Uitenhage to know whether he is aware of any additional Security having been entered into by Mr. Stödel when he was appointed



Secretary and Vendue Master at Uitenhage, and I will inform you of the result whenever I receive Colonel Cuyler's answer.

I have &c.

(Signed) RICHD. PLASKET,  
Secretary to Government.

Messrs. A. Chiappini & Co.

[Enclosure 23 in the above.]

CAPE TOWN, 29th May 1826.

SIR,—We take the liberty of requesting to be informed if you have received a reply (and if so the nature thereof) respecting the Bond of Security entered into by Francis Henry Støedel as Vendue Master of the District of Uitenhage, upon which subject you informed us by your letter of the 20th ultimo that you intended to communicate with Colonel Cuyler.

We have &c.

(Signed) A. CHIAPPINI & Co.  
Sir Richard Plasket, Kt.

[Enclosure 24 in the above.]

COLONIAL OFFICE, 19th June 1826.

GENTLEMEN,—With reference to my letter to you of the 20th April last, I am directed by His Honor the Lieutenant Governor to transmit to you a copy of a letter from the Landdrost of Uitenhage stating that no additional Security has been entered into by Mr. Støedel when he was appointed Secretary and Vendue Master at Uitenhage. I have &c.

(Signed) RICHD. PLASKET,  
Secretary to Government.

Messrs. Chiappini & Co.

[Enclosure 25 in the above.]

UITENHAGE, 28th April 1826.

SIR,—I have the honor in reply to your letter of the 21st instant respecting the security given by Mr. Støedel for the performance of his public duties here to state that I have

searched the records and can only find one letter, dated 30th November 1819, from the Colonial Office notifying the appointment of Mr. Stœdel as Vendue Master at Graham's Town and that he had lodged the usual security. His subsequent removal from Secretary and Vendue Master of the Sub Drostdy to the full Drostdy must I naturally conclude have been considered at that time as belonging to one District, and must have been the cause why no fresh security was called for, or why was not that Bond recalled and not suffered to remain in force.

I have &c.

(Signed) J. G. CUYLER.

The Hon. Sir R. Plasket.

[Enclosure 26 in the above.]

CAPE TOWN, 21st June 1826.

SIR,—We have the honor to acknowledge receipt of your letter of 19th instant, annexing copy of the Landdrost of Uitenhage's answer to your communication, wherein he states that Mr. Stœdel entered into no additional security when he was removed from the Sub Drostdy of Graham's Town to the full Drostdy of Uitenhage, and drawing a conclusion thereon that the original Bond was considered sufficient (as it still remained in force) for the full Drostdy, his (Stœdel's) second appointment being still in the same Drostdy.

We take the liberty of requesting to be informed if it is the opinion of the Board of Council that this original Bond was considered as security for the performance of his (Stœdel's) duties as Vendue Master of the full Drostdy of Uitenhage.

We have &c.

(Signed) THOS. ANSDELL  
(for A. Chiappini & Co.)

The Honorable Sir Richard Plasket.

[Enclosure 27 in the above.]

COLONIAL OFFICE, 8th July 1826.

GENTLEMEN,—Having laid before His Honor the Lieutenant Governor your letter of the 21st ultimo, submitting the question

as to the sufficiency of the security given by Mr. Støedel as Vendue Master of Graham's Town for the trust that has since been reposed in him as Vendue Master of Uitenhage, I am directed by His Honor to transmit to you a copy of a letter from His Majesty's Fiscal containing his opinion on that subject. I have &c.

(Signed) RICHD. PLASKET.

Messrs. Chiappini & Co.

[Enclosure 28 in the above.]

FISCAL'S OFFICE, 2nd June 1826.

SIR,—I have the honor to return to you herewith the original letter from the Landdrost of Uitenhage stating that no new security appears to have been taken from Mr. Støedel at the time of his appointment as Secretary and Vendue Master of Uitenhage referred to me by order of His Honor the Lieutenant Governor on the 28th ultimo for my opinion whether any new security, and to what amount, ought to have been required from Mr. Støedel on his removal from the situation of Vendue Master of Graham's Town to that of Uitenhage, and in compliance with the same to state for the information of His Honor that as the security which had been given by Mr. Støedel on the 30th November 1819 in his late capacity as Vendue Master of the Sub Drostdy of Graham's Town is given only for the performance of the duties *of his said employment*, I do not think the same can be extended to the performance of the duties of his subsequent employment as Vendue Master of Uitenhage, and that therefore, according to the 14th Article of the Regulations for the government of the Country Districts, a new security ought to have been required from him in an amount of Ten Thousand Rixdollars, for the recovery of damages to be suffered in consequence of his administration. I have &c.

(Signed) D. DENYSSSEN, Fiscal.

The Hon. Sir Richard Plasket.

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[Original.]

*Letter from MAJOR-GENERAL BOURKE to EARL BATHURST.* |GOVERNMENT HOUSE, CAPE TOWN, *September 13th 1826.*

MY LORD,—With reference to your Lordship's despatch of the 3rd January last, No. 227, requiring information as to the state of certain public buildings named therein, I have the honor to enclose the copy of a letter received from the Landdrost of Albany, stating the absolute necessity of completing the Drostdy House at Graham's Town to prevent the injury which must otherwise ensue from its exposure to the weather. Your Lordship will perceive that the Contractor has failed in his engagement, has been sued by the Landdrost, and that a question for the decision of the Court of Justice is now pending and may remain some time unsettled. I have thought it right to desire that the building may be completed, upon an estimate exceeding the sum still due to the Contractor by about 1,000 rix-dollars or £75. The litigation with the Contractor began before I took charge of this Government. I shall try to bring it to a speedy close, but in the meantime your Lordship will I am sure approve of my endeavouring to preserve the building.

Another letter from the Landdrost reports on the state of the Drostdy House at Bathurst, which is represented as fast decaying and requiring a new roof to keep it from absolute destruction. It has been lately used as a School House, and would make an excellent house for a clergyman if one should be required there, as will probably soon be the case. At this moment the house will produce nothing if offered for sale. I have therefore thought it right to authorize such repair as will preserve it from further injury, but nothing more. The public buildings of this District have hitherto been a continued source of heavy expense, which is to be mainly attributed to the want of a respectable architect.

With respect to this Government House I have to request your Lordship's recollection of a despatch of the 12th April 1825, No. 159, by which Lord Charles Somerset was authorized to expend a sum of £6,231 10s. in the repair of the house and offices in Cape Town at the times and in the manner proposed in His Excellency's letter of the 9th October 1824. Some



progress was made in the work in the course of last year, but on the receipt of your Lordship's despatch of the 8th October last its prosecution was suspended, except what was absolutely necessary to preserve from injury what had been already executed.

The wings are finished, excepting paper and painting and some trifling interior fitting up, but the expense has considerably exceeded the estimate, the latter having been stated at £1,464 10s., and the sum already paid, including a charge for some temporary repairs, amounting to £3,243 10s., to which is to be added an outstanding demand of above £400. If these sums be taken from the total authorised by your Lordship but £2,588 will remain to finish the heaviest part of the work. Finding this to be the case, I directed Mr. Skirrow (the person whom I have recommended to your Lordship as civil architect) to examine the central building and offices, and have the honor to enclose his report. Your Lordship will see that Mr. Skirrow does not consider the roof of this structure to be so unsafe as has been reported, and recommends temporary repairs, by means of which he is of opinion the building may last for some years to come. Mr. Skirrow's opinion is supported by the experience I have had of the sufficiency of the roof to keep out the heavy rains of this winter. I propose to have these repairs executed before the next, and such painting and cleaning as may keep the building from rapid decay and render it a little more creditable in appearance than it is at present. By this means if the repairs are not of so permanent a nature as were at first proposed, the expense will at least be kept within the sum authorized by your Lordship's despatch of the 12th April 1825.

I have still to trouble your Lordship with a report from Mr. Hope, the Inspector of Works and Buildings, upon the dangerous state of the Governor's country residence at Newlands. This I have also employed Mr. Skirrow to examine, and beg leave to forward his report confirming Mr. Hope's as to the defective state of the building, and proposing repairs the cheapest of which is estimated at £900. After the large sums which have been laid out on this place I cannot (however obvious the necessity) prevail upon myself to expend £900 on these repairs.

I shall therefore only order such as I find absolutely necessary for keeping out the wet and keeping up the walls which have begun to fall over some of the windows, until I am favoured with your Lordship's authority to incur the estimated expense. I concur with Mr. Skirrow in opinion that to thatch the roof will be decidedly the best arrangement, and as the building is but one storey high and in the cottage style, such a covering will not be unappropriate. I am particularly anxious to keep down the expense of the Government Residences, as the projects of the Commissioners of Inquiry with regard to them seem not quite decided.

Under any circumstances however I think it will be necessary to secure the building at Newlands by a sufficient roof, and if your Lordship shall coincide in opinion and honor me with your commands speedily after the receipt of this despatch, there may be time to execute the work before the commencement of the rains of the next winter. I have &c.

(Signed) RICHD. BOURKE.

[Enclosure 1 in the above.]

CAPE TOWN, *August 27th 1826.*

SIR,—I beg leave to suggest for the consideration of His Honor the Lieutenant Governor, whether, under the present circumstances and state of the Drostdy House at Graham's Town, it may not be advisable that a new contract for its completion should without delay be formed.

This in my opinion is absolutely necessary, as in its present unfinished state, the glazing not being completed, and the flat roof still imperfect, it is liable to much injury and dilapidation from the weather.

The existing differences between the Colonial Government and Carl Frederick Pohl, the late contractor, can in no way be affected by the measure I here propose, as whatever the decision on this case in the Court of Law may be, that person I presume will never be called upon himself to finish the building; though the Contract which he has not chosen to complete may bind him on the one hand to pay any difference of expenditure there may be between the sum yet to be paid according to its tenor, and that to be disbursed, and for which

he has given certain of his slaves as security ; still, on the other hand, should a decision be given favorably to him (which under all the circumstances of the case cannot be anticipated), the Government will have, by further delaying until the tedious progress of the law shall have decided the cause, to incur a larger expenditure than would now be necessary. I would therefore say that immediate steps should be taken to complete the building. I have &c.

(Signed) W. B. DUNDAS,  
Landdrost of Albany.  
The Honorable Sir Richard Plasket.

[Enclosure 2 in the above.]

CAPE TOWN, *August 27th 1826.*

SIR,—I beg leave to state for the information of His Honor the Lieutenant Governor, that a rapid dilapidation and decay in the Drostdy House of Bathurst is going on ; and as that arises principally from the imperfection of the slate covering on the roof, applied thereon by Mr. Mahony, the contractor for completing the building, and in part from the defective nature of the workmanship thereof, the progress of destruction must necessarily proceed unless immediate steps be taken to preserve the building. I fear even the walls which are at present perfect may sustain injury.

I beg leave now to submit the inspection Report and estimate of Repairs which I have had prepared by Mr. Gilbert, the builder, in order that the state of the building and extent of the injuries it has already sustained may be fully described.

I have &c.

(Signed) W. B. DUNDAS,  
Landdrost of Albany.

The Honorable Sir Richard Plasket.

[Enclosure 3 in the above.]

GRAHAM'S TOWN, *July 26th 1826.*

SIR,—In pursuance of your request for me to proceed to Bathurst to inspect the Drostdy House at that Place, and to

report to you the present state of the whole of the Building, also to state my opinion of what repairs, (if any) were necessary, likewise the probable expense that would be incurred in executing the same.

In furtherance of your views I have accompanied the enclosed report with a ground Plan of the house, which by reference to the rooms, as numbered, will be seen where the greatest repairs are wanted, and I have figured the dimension of each room in the Plan.

In order to make it appear distinctly, I have taken each room separately, stating what is required, the roof and colonnade I have likewise kept distinct from the repairs of the body of the house. I have &c.

(Signed) GEORGE GILBERT.

W. B. Dundas, Esqre.,  
Landdrost of Albany.

[Enclosure 4 in the above.]

Survey of the Government House in Cape Town, made by request of His Honor the Lieutenant Governor.

Having been requested by His Honor the Lieutenant Governor to survey the Government Residence in Cape Town, I have accordingly examined the several parts of the same, and find that the boards of the flat roofs with which the greater part of the building is covered are very much decayed. The timbers which support the flats are of teak, and (probably from age) are beginning to decay, nevertheless I am inclined to think they may last for some years to come. The building is generally so much out of order that I am of opinion were it to be reroofed and a complete and substantial repair entered into, so much would be found necessary to be done that the expense attending such a measure would no doubt amount to more than the building is worth, and consequently it would be more advisable to pull it down altogether and re-erect another in its place.

I therefore beg leave to recommend that at present those parts of the timbers and walls only which are absolutely rotten or unsafe be removed, and good sound materials substituted in lieu of them in the most economical manner. As to the



usual temporary repairs, such as painting, whitewashing, &c., it will be quite sufficient that they be done whenever there appears to be any necessity for the case.

(Signed) JNO. SKIRROW.

CAPE OF GOOD HOPE, 12th September 1826.

[Enclosure 5 in the above.]

OFFICE OF GOVERNMENT WORKS AND BUILDINGS,  
14th August 1826.

SIR,—I have the honor to transmit to you, for the information of His Honor the Lieutenant Governor a report on the state of the house at Newlands, with the remedy I propose. I beg to observe it has not suddenly fallen into its present melancholy condition. Its decay has been gradually coming on for these four years past, and has now arrived at that state that something decisive must be done or the front will fall in. I have postponed making out an Estimate until I know His Honor's sentiments on the plan suggested. I have &c.

(Signed) F. HOPE,  
Superintendent of Works and Buildings.

The Honorable Sir Richard Plasket.

[Enclosure 6 in the above.]

*Report on the House at Newlands.*

14th August 1826.

The parapet wall of the front of the house has suffered much from its exposed situation during the late stormy weather. It has too heavy a cornice for the material it is built of, and cracks continually by its own weight. It is hardly susceptible of permanent repair. It ought to be taken down, for should there be any sudden heavy fall of rain, such for instance as a thunderstorm, the parapet would in all probability fall and the consequences be ruinous.

The water has not only penetrated through it to the inside of the house, which has sustained some damage during the winter, but the walls themselves have such extensive cracks in them from preceding winters that unless something be

speedily and effectually done, the whole front will be in imminent danger. The bricks are bad and absorb water like so much sponge, and the mortar I believe nothing but clay.

Under all circumstances it is not in my opinion advisable to rebuild the parapet. It would be better to prolong the roof so as to cover the walls. It is the only expedient I am aware of to secure at a moderate expense that part of the house from destruction. The proposed alteration will make no great difference in its appearance, perhaps even improve it by making it more in unison with the rest. There is a sufficiency of shingles in store for the purpose.

There are two gutters running almost the whole length of the main body of the house to convey away the water from the central ridges of the roof and inside slopes of the outer ridges, which are so shallow that they overflow at almost every heavy rain. They should be taken up and deeper substituted, with a slight change in their inclination should the proposed alteration to the front of the house be adopted.

The planks of the roof of the veranda are generally in a state of progressive decay from damp and want of air. In some places they are quite gone. The veranda however might be made to last three or four years longer by replacing the planks that have suffered most, stopping well the cracks in the plastering above and giving the whole two or three coats of coal tar mixed with pounded chalk. The ceiling must be taken down, so that the woodwork may be aired, when I would recommend its being painted. The rafters by that means will be preserved for a new roof when deemed necessary, and the want of ceiling be scarcely remarked.

(Signed) F. HOPE,  
Superintendent of Woods and Buildings.

[Enclosure 7 in the above.]

Report of Survey of the Government Residence at Newlands  
made by request of His Honor the Lieutenant Governor.

CAPE OF GOOD HOPE, 12th September 1826.

Having by request of His Honor the Lieutenant Governor  
carefully surveyed the Residence at Newlands for the purpose

of ascertaining the cause why the said Building is almost continually out of repair, and likewise for suggesting the best and most economical means by which this liability to get out of repair may be rectified, I beg leave to state the following facts :—

In the first place the shingles with which the roof is covered have been laid on in such a manner as I conceive it impossible in their present state that they can answer the purpose of preventing the wet from coming through to the inside of the building, inasmuch as they are very insecurely fastened and have so little overlap that the sun's rays may be distinctly seen in various parts in the inside of the roof.

I also perceived that boards have been laid over the timbers above the ceilings and covered with sawdust, evidently with a view of absorbing the water which has fallen through the roof, so that the consequent damp might not be observed on the ceilings below, which boarding and sawdust, I am of opinion, if suffered to remain will, by keeping the timber damp as well as by confining the air between the timbers (where there ought always to be a free circulation) render them very liable to decay.

And further the gutters are laid with lead by far too light for the purpose, and in too great lengths without proper drips; moreover as I perceive that they have been repaired with solder, I conceive they must be always liable to crack and allow the wet to come through whenever it rains; these gutters and also the lead flats I am of opinion cannot be made to answer the purpose by any temporary repair.

Furthermore the veranda round the front of the building is decaying very fast from the wet having penetrated through the plaster of it, the boards on which the plaster is laid being for the most part rotten, and a large portion of the ceiling having fallen off; also from the great weight of the timbers and plaster the said veranda is separating from the walls.

It is therefore my opinion that it will be absolutely necessary to strip the roof entirely and take up the gutters and flats, and I should likewise strongly recommend that the cornice which is in the front of the building be removed, and to reshingle the roof, using the old shingles as far as they will go, also to relay the gutter and flats with lead of at least eight pounds to the

foot superficial, with proper drips, &c., making the roof to project beyond the walls where the cornice now stands.

I should also recommend that the top of the veranda be entirely removed, and that another *light* covering, such as canvas painted, be substituted in its stead.

Or instead of covering the roof with shingles, I am decidedly of opinion that a thatched roof would answer the purpose better, it being cheaper than shingles, and when properly done will seldom or ever fail of preserving the building from the effects of the winter rains of the Colony.

Having estimated what would be the expense of doing the before-mentioned work, it is my opinion that using shingles it would cost thirteen hundred pounds sterling. And if thatch were used instead of shingles, that it would cost nine hundred pounds sterling. In both cases I have considered that the old materials will be used where applicable, and that what are unnecessary will be sold.

(Signed) JNO. SKIRROW.

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[Original.]

*Letter from MAJOR-GENERAL BOURKE to EARL BATHURST.*

GOVERNMENT HOUSE, CAPE TOWN, *September 14th 1826.*

MY LORD,—Having stated in my despatch<sup>r</sup> of the 6th ultimo, No. 55, that I had directed the Medical Committee to examine and report upon Camp's Bay with a view to establishing a Leper Asylum there in conformity to the suggestions of His Majesty's Commissioners of Inquiry, I have the honor to transmit the Report, by which your Lordship will perceive that the Committee are of opinion that the situation and localities are highly eligible for such a purpose, but the Colonial Physicians apprehend danger from bringing those diseased persons so near to the Metropolis. Understanding that the Inhabitants of this Town partake of this fear, I would recommend to your Lordship that the project be abandoned.

I have communicated to the Commissioners of Inquiry, in a letter of which the enclosed is a copy, the Report of the Medical Committee, and have suggested the Establishment of two



asylums, one at Caledon and the second at Port Elizabeth or Algoa Bay. I entered into this subject with the Commissioners, knowing that they have expressed a very strong opinion as to the state of the existing Institution. It is I believe very different from what might be wished ; but without sufficient funds it is not possible to render it much better than it is. Building is very expensive in this country, and an Asylum of this kind requires a large space substantially and securely enclosed.

I have &c.

(Signed)      RICHD. BOURKE.

[Enclosure 1 in the above.]

GOVERNMENT HOUSE, CAPE TOWN, 29th August 1826.

GENTLEMEN,—Referring to your letter of the 9th June last, in which you suggest the possible saving of expence by uniting the Somersct Hospital and Leper Asylum under one superintendence by removing the Lepers to the vicinity of Cape Town, I have the honor to inform you that having received Instructions from His Majesty's Secretary of State to make arrangements for the disposal of the Government Farms at Groote Post, Buck Bay, and Camp's Bay, I directed the Medical Committce to report upon the fitness of the latter for a Leper Asylum. I have the honor to enclose the Report, by which you will perceive that the Colonial Physicians are apprehensive of danger in bringing these diseased persons so near to the Capital Town of the Colony, and I understand that the Inhabitants participate generally in this apprehension. Without enquiring whether it is or is not well founded, I consider the existence of this dread to be sufficient reason for not bringing the Lepers into this vicinity.

It remains then to be considered whether the present Asylum is to be reformed, or one or more established in other places. The great extent of the Colony seems to render it advisable that there should be two at least, and the nature of the disease requires that they should be placed on or near the sea-shore. Perhaps therefore it might be expedient to establish one in the neighbourhood of Caledon and the second near Port Elizabeth. In each of these places there is a resident Surgeon.

It will obviously be necessary to incur considerable expence in the buildings and enclosures for these unhappy people, as the sexes should be separated, and humanity demands that they should not be kept in close confinement.

You are I believe convinced that the present Institution, notwithstanding the benevolent attention of the Resident from the Moravian Society, and the considerable expence annually incurred, is in a very defective not to say discreditable state ; I trust therefore that you will in your report bring the matter under the notice of His Majesty's Government in confirmation of the statement I have already had occasion to make on the subject ; and if any more desirable arrangement than that which I have now suggested shall present itself, that you will have the goodness to communicate it. I have &c.

(Signed) RICHD. BOURKE.

His Majesty's Commissioners of Inquiry.

[Enclosure 2 in the above.]

CAPE TOWN, 17th August 1826.

Proceedings of the Supreme Medical Committee held this day in conformity to the directions of His Honor the Lieutenant Governor, to Report on the situation and localities of Camp's Bay for a Leper Institution.

The Committee, having inspected the Place, are of opinion that as far as regards the Lepers themselves, the situation and localities are highly eligible, that an advantage might accrue to the Institution from being at such a convenient distance to be more immediately under the eye of Government, and that benefit might result to the science and practice of medicine from the opportunity of seeing the disease more nearly, and the trial of medicines, particularly the modern active ones, in the treatment of a complaint hitherto found untractable, and also from the better discrimination of the cases, as no doubt many may be considered as leprous not really so, and be thus abandoned to their fate.

As far as regards the community at large, there is more doubt on the subject, it being generally considered an infectious and contagious complaint, considerable dread is entertained

of it in the Colony, and great alarm and discontent would be excited by its being brought in such near vicinity to Cape Town. At the same time many modern authors of high repute consider it as non-contagious, and facts have fallen under the observation of some of the Committee strongly tending to confirm this opinion, while not a single one is known to any of them proving the contrary. It is however considered an hereditary disease, for which the Committee think there was grounds, and that therefore means should be taken to prevent intercourse lest it might be thus further propagated. Doctors Wehr and Liesching, though they agree as to the correctness of the above statement, wish it to be particularly mentioned that from the impossibility in their opinion of sufficiently preventing intercourse they consider the place ineligible.

(Signed) JOHN ARTHUR, M.D.,  
J. H. F. WEHR, M.D.,  
L. LIESCHING, M.D.,  
W. H. LYS,  
JOHN MURRAY.

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[Original.]

*Letter from MAJOR-GENERAL BOURKE to EARL BATHURST.*

GOVERNMENT HOUSE, CAPE TOWN, *September 14th, 1826.*

MY LORD,—Having in my despatch of the 11th ultimo stated to your Lordship that I conceived the opposition to the Ordinance for improving the condition of the Slaves, and the irritation caused by its promulgation were progressively subsiding as the tendency of its enactments was more fully ascertained; I am happy to report that the experience of the last month strongly confirms this opinion. Some clamour is indeed still raised against the measure by a few of the principal Slave Owners and some English Merchants forming the Committee which was appointed to prepare a petition to His Majesty for the repeal of this Ordinance, and which set out by professing in a Memorial addressed to Council an anxious desire to propose something in the way of improvement of the Slaves' condition even beyond the measures of the Ordinance and which should at once lead to the extinction

of Slavery in the Colony. These professions were however accompanied by a proposition to suspend or repeal the Ordinance as a necessary preliminary. The Council not being able to perceive the necessary connection between the suspension of the Ordinance and the further improvement of the servile condition or its ultimate extinction, naturally suspected the sincerity of the professions laid before them, and without however discouraging any attempt at further improvements, refused to suspend the law. The subsequent conduct of the Committee has justified the suspicions of the Council, for being thus frustrated in their first and I believe their only object, the Committee have expressed their intention of limiting their proceedings to the forwarding a petition to His Majesty praying for the suspension of the Ordinance.

I understand from Persons in whom I can confide, that if the Committee had succeeded in obtaining a suspension of the Ordinance they proposed to apply for a Vote of Parliament to the amount of two or three millions sterling to compensate any Slave Owners who might be damaged in property by the present or any other measures adopted for the improvement of the condition of the Slaves or the extinction of Slavery ; that they expected this vote to be encreased by voluntary subscriptions in England, and at an interview which a deputation of the Committee had with me shortly after their appointment, one of the Members, with reference to this project, observed that they proposed applying for money to Mr. Wilberforce ! After an official proposition of this sort at once so puerile and so mischievous I despaired of any benefit from the proceedings of this Committee. Many of the well informed Colonists now admit that the object of the Committee was a *money speculation*.

Upon communicating to these Gentlemen the last resolution of Council, I desired Sir Richard Plasket to address a letter to them, of which and their answer I have the honor to transmit copies. Your Lordship will perceive that towards the close of their answer the Committee have wandered into another subject, which they have not handled in the most becoming terms. I have not however deemed this worthy of notice, satisfied at having with so much less difficulty than might have been anticipated, introduced those salutary regulations which it is



the benevolent object of His Majesty's Government to establish in the Colonial possessions of the Crown where Slavery prevails.

I have &c.

(Signed) RICHD. BOURKE.

[Enclosure 1 in the above.]

COLONIAL OFFICE, 15th August 1826.

SIR,—In conveying to you a copy of the Minute in Council upon the subject of the Memorial praying for a suspension of the Ordinance for improving the condition of the Slaves at the Cape of Good Hope, I am directed by His Honor the Lieutenant Governor to state that he perceives with regret the apprehension entertained by the Memorialists and others of the principal Slave Owners in this Colony as to the effect of some of the provisions of this Statute. His Honor conceives that this alarm has its origin in an erroneous or exaggerated notion of its enactments, and chiefly he believes of those which direct the mode of proceeding in cases of complaint brought by the Slave against his Master and of others which relate to the right of property legally possessed by the latter. With respect to the first of these, His Honor would observe that the practice of the Colonial Courts is similar to that which is directed by the 17th section of the Ordinance, and that in the instance where a *primâ facie* case of ill treatment of a Slave has presented itself, it has been usual to call upon the Master to satisfy the Court as to the part which he took in the transaction complained of. His Honor has too good an opinion of the Judges with whom the investigation under the Ordinance of such complaints will rest, to suppose that they will violate any acknowledged rule of Law or call upon the Master needlessly or unnecessarily to prove his innocence of an improbable accusation, but will first duly examine the accuser and obtain a full particular and probable statement, such as it has heretofore been the practice in this Colony to acquire. The 17th section however affords an additional security to the Master, as it authorises the Governor to order the discontinuance of such prosecution.

With respect to the rare case of a Slave requiring to purchase his freedom contrary to the inclination of his Master, His

Honor directs me to observe that by the 33rd Section the Slave is required first to prove to the satisfaction of the Guardian that he has obtained the proffered sum by *lawful means*. The appraisement is then (and not before) to take place under the eye of the Court of Justice by the most public proceedings, and I am to add that in a Colony where a similar regulation has been some time in force, it has been decided, that in estimating the price of the Slave his relative value is to be taken into account.

His Honor has directed me to advert to these particular provisions of the Statute, from which he understands injurious consequences are chiefly apprehended, but if this explanation should not quiet the alarm of the Memorialists, His Honor will transmit to the Secretary of State the Petition which the Memorialists are met to prepare ; and if the amendments to be suggested are such as he approves he will join in respectfully recommending their adoption. In the mean time as it is the object and intention of this Ordinance to improve the condition of the Slaves without the invasion of the Master's lawful rights, it will be the duty of the Lieutenant Governor as entrusted with the executive power in this Colony to correct any possible misapplication or misconstruction of its enactments which might prejudice in person or property any of His Majesty's subjects.

With respect to the total extinction of Slavery in the Colony, to which the attention of the Memorialists has been directed, His Honor would endeavour to impress upon them the necessity of treating this delicate and difficult subject with the greatest circumspection. If however upon due reflection they conceive themselves enabled to propose a practicable plan for the attainment of this desired object, His Honor will have the greatest satisfaction in submitting it to the consideration of His Majesty's Government. I have &c.

(Signed)      RICHD. PLASKET,  
Secretary to Government.

J. A. de Wet, Esqre., LL.D.,

Secretary to the Committee appointed by  
the Inhabitants for preparing a Memo-  
rial to His Majesty the King in Council  
relative to the Slave Ordinance.

[Enclosure 2 in the above.]

TOWN HOUSE, 26th August 1826.

SIR,—We have the honor to acknowledge the receipt of your Letter of the 15th Instant, conveying, by direction of His Honor the Lieutenant Governor, copy of the Resolution in Council upon the Memorial bearing date the 7th August which we submitted as the Committee appointed by the inhabitants assembled, under authority, at the Town House on the 22nd day of July last, for the purpose of voting for and selecting a Committee to draw up a Petition to His Majesty on the subject of the Ordinance for improving the condition of the Slaves at the Cape of Good Hope, and to consider the best means of co-operating with His Majesty's Government on that subject.

In that Memorial we trusted that we had succeeded in satisfying all doubts as to the nature and extent of our appointment, and were induced to entertain rather confident expectations that the Council would, in our explanations, perceive that we had been duly authorized to proceed as we had done, and that the Council would moreover have held out to us encouragement to prosecute a measure of a character esteemed so highly laudable, and upon which so much has been expressed by the least enthusiastic abolitionists in all public discussions touching the subject of Slavery in general.

Contrary however to those expectations which had been excited, not only from the nature of the subject in itself, but under the declared sentiments of His Majesty's Ministers in both Houses of Parliament, we find by the Resolution in Council that our authority is virtually denied, and that we are consequently left merely to frame a Petition to His Majesty in Council for the consideration and adoption of the inhabitants, which His Honor engages to transmit to the Secretary of State, and in case the amendments to be suggested are such as he approves, His Honor will join in respectfully recommending their adoption.

The observations contained in that communication have been most carefully and attentively considered by us, upon which we beg leave to observe that as a Statute, according to the judgment of the highest legal authorities, ought to be

precise, clear, and free from all ambiguity or uncertainty, and so perspicuous as to be comprehensible to the lower orders of the Community, so at all Foreign Stations more particularly ought a Statute not to be exposed to the discretion of the Judges, or to the still possible misconstruction of their local Superiors.

That the Ordinance No. 19 is in direct opposition to the foregoing principles, we are the more confirmed by your letter of the 15th Instant; we advert to that part of it giving us to understand that the signification of the 17th section is conformable to the practice of the Colonial Courts, tho' we are not aware of an instance in which an accused has been convicted for not being able to prove a negative, which that Section of the Ordinance No. 19 clearly prescribes the party should be required to do. We therefore cannot but lament that His Honor, under the counsel of his legal advisers, should have been led to believe that such has been the practice hitherto pursued in this Colony.

We beg farther to advert to another part of that letter stating, in reference to an eventual appraisement in another Colony where a similar regulation has been some time in force, that the relative value of the Slave has been taken into consideration. As the Ordinance No. 19 does not contain a syllable to this effect, but establishes a Law, constituting the only rule of action, it is consequently clear that any other interpretation would leave so much to discretion as to enable a Judge to decide as he might deem fit, and possibly in such a manner as might prove highly detrimental to the interest of the Master.

On these grounds therefore we submit that the Ordinance No. 19, as it at present stands, is so defective and equivocal, and so replete with dangerous consequences that any unpublished assurance would be unavailing, inasmuch as a Law for the governance of the Community ought to be made as public as possible, and nothing be left to the conception of the accuser or accused, as to the possible interpretation and execution of it.

Were anything necessary to exemplify the correctness of the preceding observations, we would instance the circumstance that occurred in the Bokkeveld, which occasioned a Circular



to be issued to the Country Districts some time in the month of March or April 1825, and which unequivocally ascribed the cruel murders perpetrated there to the erroneous expectations entertained by the Slaves, and, as is further stated, to the circumstance of the Proclamation of the 18th of March 1823 not having been properly explained to them.

We may therefore reasonably conclude that the Proclamation was not clearly and intelligibly expressed. We have consequently before us the effects of an imperfect Proclamation, for had its enactments and provisions been perspicuous, there would have been no necessity for reference to those channels of communication to which the matter was consigned for elucidation.

To alter and amend a Statute so replete with inconsistencies as is the case with the Ordinance No. 19, would be to prolong danger and confusion, and to incur consequences that might be wholly irremediable, whilst in observance of the example set by the Parent State in regard to the repeal of various Statutes by the re-enactment of their operative parts, and of the precedent afforded in this Colony in relation to the Wine Licensing System, the formal suspension of the Ordinance No. 19 pending the substitution of one better adapted, would clear away the consequences of which we have been, and still are, apprehensive.

Under the foregoing circumstances, and feeling as we do, in a more forcible manner than heretofore, the inutility of complaint, remonstrance or representation, it becomes our duty to consider of the best means of obtaining the object we have in view, as under the caution suggested in the resolution of Council of the 31st July last, and in substance reiterated in your communication still before us, we should feel ourselves under such restraint that it would be impracticable in us to discharge our duty conscientiously, or to perform it in a manner that might be compatible with the principles and intentions of our principals, the Inhabitants. We are consequently (owing to the refusal of his Honor to suspend provisionally the operations of the Ordinance No. 19) precluded from proceeding in the preparation of a plan having for its object the amelioration of the condition of the Slave Population, and the ultimate extinction of Slavery in this Colony ; and therefore

feel ourselves bound to prepare a Petition to His Majesty to pray for such provisional suspension, as an indispensable preliminary towards the eventual completion of the plan alluded to.

Thus circumstanced, we cannot but with reluctance forego the further agitation with the Colonial Government of a subject that, as regards the majority, has been imposed on us by the wishes of the Inhabitants.

As it has not pleased the Colonial Government latterly to recognize our powers to go farther than to prepare a petition to the King for the consideration and adoption of the Inhabitants, subject to the eventual approval of His Honor the Lieutenant Governor, we are consequently not at liberty to expect that anything we might further adduce on behalf of the Inhabitants will be more favorably received. We nevertheless conceive it to be our duty respectfully to declare, to reserve to the Inhabitants by whom we were appointed their just and legal claims upon His Majesty's Government for compensation for all losses that they may now or hereafter sustain from the operation of the Ordinance No. 19 (in so far as the same may have obtained the force of Law) whether arising from the deterioration in the value of Property, or by actual losses from acts of a more prejudicial tendency. But as we are free at all events and competent to do so on our own behalf, we in candour beg in terms of respect, yet in a tone of remonstrance, to remark that several Proclamations, after having obtained the full force of Law, have been entirely disregarded, and thereby infringed to the deterioration of property and the detriment of the Colonists; altho' similar Edicts have led to capital punishments.

That the representations made thereupon have been wholly unavailing; and we regret to add that according to published Reports, even misrepresentation has occurred recently on the part of an official personage in England, from whom it was not to have been expected in that assembly to which all naturally look for protection.

It will not therefore we conceive appear at all surprising to His Honor, that we should view any enactment not in every respect perfect, and indubitable, with a degree of fear and apprehension, since the alarm we are under has been excited

by the non-fulfilment of several Proclamations in the scrupulous observance of which unlimited faith and the most perfect confidence had been reposed. We have &c.

(Signed) P. WOUTERSEN, Chairman.

By order of the Committee,

(Signed) J. DE WET, Secretary.

Sir Richard Plasket, Kt.,  
Secretary to Government.

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[Original.]

*Memorial of the Directors of the London Missionary Society.*

The Memorial of the Directors of the London Missionary Society Humbly Sheweth,

That your Memorialists had the honor to present to your Lordship two memorials, bearing date the 30th of January in the present year; one of which related to the Society's missionary institution at Theopolis in the Colony of the Cape of Good Hope, and the other to its late missionary establishment in the Zuurbraak, called Caledon Institution, in that Colony. Your Memorialists have the fullest confidence that both of the said memorials have received the favorable attention of your Lordship, and that instructions pursuant to your Lordship's direction have been transmitted to the Colonial Government, with a view to the redress of the several grievances therein complained of, and in answer to the prayers of the said memorials, which appeared to your Memorialists, and they Trust also to your Lordship, clearly to rest on the basis of justice and humanity.

Your Memorialists cherishing, as their experience warrants them in doing, the greatest confidence in the just and liberal sentiments of your Lordship, cannot but feel proportionate regret on finding themselves under the necessity of again trespassing on your Lordship's attention in reference to the first named institution, in consequence of communications which they have lately received from South Africa.

Your Memorialists beg leave to state that it appears from the said communications that the missionary at Theopolis, who superintends the secular concerns of that institution, has received from Sir Richard Plasket, the Colonial Secretary, a communication intimating to him that your Lordship is disposed to sanction a Grant to the said institution, of a certain strip of land lying between the missionary establishment and the late Colonel Fraser's estate, on the condition of the missionaries "not further extending their possessions by purchase or otherwise," without the consent of His Excellency the Governor of the Cape of Good Hope, and that he the Society's Missionary has felt it to be obligatory upon him, from the purest convictions of what his duty demands, respectfully to decline the proposed Grant, and that on the following grounds, viz. that the land proposed to be granted could not by reason of the poverty of its soil be an equivalent for the surrender of the right of the purchase, &c., required as the condition of such grant, and further, because the said missionary understood from the correspondence of the Directors of the Society that an application had been made by them to your Lordship for a Grant of land more beneficial to the institution than the other ever could be rendered, and which he trusted would be acceded to by your Lordship.

Whilst your Memorialists express their unfeigned concern that the Grant with its concomitant condition was not such as the missionaries felt that they should be justified in accepting, they beg leave to state to your Lordship their own full conviction that the missionaries in declining it were actuated by the purest motives of regard to the future improvement and efficiency of the institution established at the settlement, and your Memorialists are further constrained to state that their own judgment on this point is in entire coincidence with that of their missionaries. Your Memorialists also feel persuaded that the proposal of His Majesty's Government as to the Grant of the land in question, should it have emanated in its present form from His Majesty's Government, was transmitted before the memorial of the 30th of January relating to that institution had come under the attention and consideration of your Lordship, since your Memorialists cannot but flatter themselves that after the statements contained in the said memorial had



become known to your Lordship, your Lordship would be disposed to admit that the claims of the Hottentots at Theopolis on the justice and liberality of His Majesty's Government were of a nature to justify the expectation of a favorable answer to the prayer of the said memorial addressed to your Lordship on their behalf.

Under this persuasion your Memorialists beg leave humbly to renew their appeal to your Lordship on behalf of an institution tending to the temporal and spiritual welfare of these meritorious aborigines of South Africa, and to invite your Lordship's renewed attention to the prayer of their Memorial of the 30th of January respecting Theopolis, which is as follows :—

“ And your Memorialists are therefore (i.e. by the several reasons previously enumerated in the Memorial) encouraged respectfully to request that your Lordship will be pleased to send out instructions to the Colony not only for the full restitution of the lands which it is proposed to abstract from the institution ; but also that such steps be taken by the Colonial Government as may be necessary to secure the possession of the said lands (viz. the remaining lands still occupied by the Hottentots of the Institution) not included in the privation in question, to the institution, free from all future abstraction or disturbance. Your Memorialists are also encouraged on the grounds above stated, further to solicit that the whole of the lands situated between the eastern line of the diagram and the river Carrega, extending to the sea beach (referring to a plan of the lands contiguous to Theopolis which accompanied the Memorial) may be granted for the use of the institution of Theopolis. The Grant of these lands would impart protection and compactness to the institution and secure the communication of its inhabitants with the sea shore ; would provide for their future increase and both encourage and reward their patient and meritorious industry which, as your Memorialists conceive, so highly entitles them to the generous consideration of His Majesty's Government.”

Your Memorialists are induced to be more earnest in commending the case of their Institution at Theopolis to the favorable attention of your Lordship, by their consciousness of integrity and truth in assuring your Lordship that it merits

the protection and support which they earnestly solicit on its behalf, not more from the religious and moral benefits which it has been the means of communicating to numerous individuals among the aboriginal Hottentots, than from the effects which are actually produced in raising a portion of that race, long esteemed to be the outcasts of human nature, to a capacity to sustain the relations of civilized life, to discharge the duties of useful citizens and faithful subjects, and thus offer to the world a proof of what their whole nation is capable, if placed under the culture of religious instruction and benevolent principles. Your Memorialists beg leave again to invite your Lordship's attention to the progress actually made in civilization and social improvement by the native Hottentots in this and in the Society's other institution at Bethelsdorp. These two institutions contain most probably from 2000 to 3000 individuals.

The knowledge of reading is now more common amongst them than, perhaps, it is amongst the Boers of the Colony. Bethelsdorp and Theopolis each contains many substantial houses of stone belonging to these natives and a commodious well built place of worship and a large school ; the trades are now carried on by native artizans ; some of them possess respectable property in cattle and implements of industry ; and a contract was not long ago made between some of these natives and the local authorities for the conveyance of His Majesty's stores from Algoa Bay to the interior, which was fulfilled with a punctuality and security that received the particular approbation of the officers by whom they were employed. The amount of British manufactures consumed by the Hottentots of the Missionary Institutions of Bethelsdorp and Theopolis alone is annually about 37,000 Rixdollars.

It need not be stated to your Lordship that such a progress as this, in their claims to social consideration, however well merited, cannot be made by a race so depressed as that of the Hottentots, without exciting the dislike and displeasure of parties accustomed to view them with disdain, and to derive advantages from their previous abject state ; and to this source your Memorialists cannot but trace many, if not most, of those unfavorable representations, which have been circulated against the state and tendency of the two institutions of

Bethelsdorp and Theopolis. But, from the impressions which such representations are calculated to produce, your Memorialists appeal to the generosity and liberal-mindedness of His Majesty's Government towards every portion of mankind falling by the dispensation of Divine Providence under its political authority ; and they can assure your Lordship of their honest conviction that the favors which may be conferred through your Lordship's benevolent interposition on the Hottentot population of those settlements, and others of the Society, will not be wasted on an unfruitful or ungrateful soil.

The Directors beg leave to add, that the occupancy of the land pointed out as lying between the Institution at Theopolis and the sea shore is of the highest importance to the settlement, as a means of industry and advantage to the inhabitants, by affording them the means of obtaining shells for the purpose of making lime, both as an article for their own use and for traffic with the interior ; and on this ground your Memorialists most earnestly entreat that your Lordship will secure to them, at all events, a free access to the neighbouring sea shores with liberty to collect the materials necessary for the purpose just stated.

And your Memorialists assuring your Lordship of the unfeigned gratitude which they feel for the acts of kindness which your Lordship has already conferred upon these institutions, in the progress of which they take so deep an interest, have &c., &c.

On behalf of the Directors of the London Missionary Society,

(Signed) WM. ALERS HANKEY, Treasurer.

MISSION HOUSE, AUSTIN FRIARS, *September 14, 1826.*

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[Original.]

*Letter from MAJOR-GENERAL BOURKE to EARL BATHURST.*

GOVERNMENT HOUSE, CAPE TOWN, *September 15th 1826.*

MY LORD,—I have the honor to inform your Lordship that a sentence of the Court of Justice condemning two Bushmen to death for Murder has been lately laid before me to receive

a *fiat executio* according to the practice of this Colony. These unhappy persons are called *Daniel* and *Wildeman*, the former of whom has been a considerable part of his life in service in the Colony, speaks the Dutch language fluently, appears to possess considerable Intellect, and could hardly have been ignorant of the extent of the crime he has committed. I have therefore signed his Sentence.

The other person *Wildeman* I have reprieved until I shall have received His Majesty's commands, humbly recommending him as a fit object of the Royal Mercy, and requesting that his sentence may be commuted from death to labor in irons on the public works for life. My reasons for recommending him are these : He had resided in the Colony but one month before he assisted in committing the murder. He cannot speak nor does he appear to understand a word of Dutch, and on his trial there was no other Interpreter than his associate in the Dock. He seems besides to be naturally of a most stupid and sluggish disposition. The Chief Justice has also informed me that the Court entertained a confident expectation that mercy would be extended to this Offender.

I have thought it my duty to acquaint the Chief Justice that on all occasions when the Court has reason for entertaining such an expectation it should be formally expressed.

I have &c.

(Signed) RICHD. BOURKE.

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[Original.]

*Letter from SIR RUFANE DONKIN to EARL BATHURST.*

33 PARK STREET, GROSVENOR SQUARE, *September 15, 1826.*

MY LORD,—It is only lately that I have been able to obtain through the intervention of Major-General Bourke, whose interference I had requested before he left England, an authenticated copy of the Despatch which your Lordship did me the honor to write to me on the close of my administration of the Government at the Cape of Good Hope, dated 28th September 1821.



The original and the duplicate have both been withheld from me ; and it is only by the possession of the copy I now have that I am enabled, thus late, to address your Lordship in those terms of respect and dutiful thankfulness which such a mark of my Sovereign's approbation ought to call forth, and which I beg leave now to offer ; and, at the same time to express to your Lordship the high sense I entertain of the manner in which you have been pleased to convey to me His Majesty's gracious approbation.

I will not trouble your Lordship with any observations or enquiries as to the possible causes which have thus, for nearly five years, withheld from me the official knowledge of the existence and tenor of this (to me) most invaluable document ; but I think it right that your Lordship should know that having learnt in this country that such a document existed, I have repeatedly applied to the secretary of the Colony at the Cape to have it sent to me. I was preparing to address your Lordship to request that as the Governor of the Cape of Good Hope had landed in England, you would be pleased to direct enquiry to be made of him if he had any knowledge of the causes which had intercepted a gracious communication from my Sovereign to me, and prevented me from receiving the highest reward I could receive as a subject and an officer, namely, the King's clearly expressed and entire approbation both of my administration in general and of the manner in which I had conducted the settlement of the Body of British subjects who came out to the Colony in 1819.

I am not without fear that your Lordship may, in the long interval, have imputed my not acknowledging your Lordship's despatch to either negligence or to a want of a due sense and gratitude for so distinguished an honor ; but having taken this opportunity of shewing to your Lordship the real cause of my silence, it only remains for me to say that as soon as your Lordship comes to town, I shall ask permission to pay my respects personally to your Lordship, and to assure you what entire respect I have &c.

(Signed) R. S. DONKIN.

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[Office Copy.]

*Letter from R. W. HAY, ESQRE., to MR. JOHN FOURNIER.*

DOWNING STREET, 16 *September* 1826.

SIR,—With reference to my letter of the 31st ultimo, I am directed by Earl Bathurst to request that you will acquaint me, for his Lordship's information, whether it is your intention to return to the Cape of Good Hope for the purpose of resuming your Agricultural pursuits, in order that his Lordship may be enabled to judge how far it may be in his power to further your views, in the event of a favorable report upon your case being received from the Commissioners of Inquiry.

I am &c.

(Signed) R. W. HAY.

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[Office Copy.]

*Letter from R. W. HAY, ESQRE., to CAPTAIN BUTLER.*

DOWNING STREET, LONDON, 16 *September* 1826.

SIR,—I am directed by Earl Bathurst to acknowledge the receipt of your letter of the 17th of May last, in which you apply to be furnished with the means of transporting to your location at Graham's Town a number of Labourers and Artizans from Ireland; and I am to acquaint you in reply that it is not in his Lordship's power to comply with your request.

I am &c.

(Signed) R. W. HAY.

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[Original.]

*Letter from MR. JOHN FOURNIER to R. W. HAY, ESQRE.*

(18th ?) *September* 1826.

SIR,—In reply to your request of the 16th ultimo that I would inform you whether it is my intention to return to the Cape to resume my former agricultural pursuits, I beg leave

to remind you that my circumstances are such that it is utterly impossible for me to choose, and that I have hitherto been waiting the result of the application to Earl Bathurst for indemnification for the grievance which I have laid before him, to decide upon the measures which I must afterwards pursue.

This I have done in the confirmed belief that my Statement to His Lordship would eventually be corroborated by the Commissioners. And as I was informed at your office on the 11th of this month that the report upon it was then received, I trust his Lordship will shortly find that what I have asserted is true.

In respect to my returning to the Cape, in the supposition that his Lordship should feel inclined to further my views by removing the obstacles which are in my way I should be content, provided no other measures could be resorted to for my relief.

I have &c.

(Signed) JOHN FOURNIER.

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[Original.]

*Letter from MR. THOMAS PRINGLE to R. W. HAY, ESQRE.*

8 ARUNDEL STREET, STRAND, *September 18th 1826.*

SIR,—I have the honor to acknowledge the receipt of your letter of the 10th February last addressed to me at the Cape of Good Hope (but which reached me only a few days ago in London), communicating the decision of Earl Bathurst upon the representation which I addressed to His Lordship on the 15th January 1825.

The Report of His Majesty's Commissioners of Inquiry on my case has, I must confess, exceedingly surprised me, and the more so as the tenor of their conversation at the interviews I had with them in March and April last, before leaving the Colony, was by no means of a character to prepare me for such a result.

Although however I feel it due to myself to protest against the conclusions which the Commissioners appear to have come

to upon the most important points of my Statement, I forbear, for the present, from troubling Earl Bathurst with any further remarks on this subject in writing ; but beg leave respectfully to request the favor of a personal interview either with his Lordship or yourself, as soon as convenience may admit of it.

I have &c.

(Signed) THOS. PRINGLE.

P.S.—As I have not been so fortunate as to find you at Downing Street on several occasions when I have called since my arrival in London, I request you will do me the favor to appoint any day and hour that it may suit you to see me there.—T. P.

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[Original.]

*Letter from LORD CHARLES SOMERSET to R. W. HAY, ESQRE.*

*September 19th 1826.*

SIR,—I do myself the Honor to return the Lists of Items of Expenditure in the Accounts of the Cape of Good Hope for the Years 1819, 1822, and 1823, as well as those during the Years 1820 and 1821 under the Administration of Lieut.-General Sir R. S. Donkin, upon which Explanations have been required. With respect to the latter I have made marginal Notes (in Red Ink) upon such Items as I have it in my Power, without Reference to the Cape, to afford Information upon, and I trust that the Explanations I have given upon the unapproved Items in the Accounts for the Years 1819, 1822, and 1823 will be entirely satisfactory. Amongst those for 1819 I perceive that the Pension to Mr. Van Kervel, (late Landdrost of George) has not been approved by Earl Bathurst.

As it was the received Opinion that Landdrosts of Districts, if incapacitated by impaired Health or extreme Age to perform their Duties, were entitled (if the Claim were supported by the Integrity and Length of their Services) to a Retirement of 2000 Rds. per annum, I allowed Mr. Van Kervel to retire upon those Terms, and I am much concerned to find upon a Reference to my Despatch Book, that I omitted to report the Circum-



stance to Earl Bathurst at the Time, for which I trust his Lordship will accept my Apologies ; it occurred at a period when the Government was much occupied in applying the Energies of the whole Colony in resisting the Kaffers, but still as it was a matter of routine of official Business, I am surprized that the Chief Secretary to Government did not bring the Subject before me and prevent the Omission, as I had at that time every Reason to be satisfied with his Diligence and Punctuality in Office.

Mr. Van Kervel had been very long in the Service, and was removed by Lord Caledon from being a Member of the Bank to the Landdrostship of George upon the first establishment of that District. At the time I allowed him to retire he was at a very advanced Age and so infirm as to be totally incapable of the Duties of his Situation, and he has since dwindled into a state of Imbecility and has nothing whatever, I understand, to support him but the Pension which forms the subject of this Item. I have &c.

(Signed) CHARLES HENRY SOMERSET.

[It seems unnecessary now to give the enclosures in this letter, which are lengthy and of no interest.—G. M. T.]

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[Original.]

*Letter from the* REVEREND JOHN MURRAY to  
R. W. HORTON, ESQRE.

ABERDEEN, 19th September 1826.

SIR,—I beg you will have the goodness to lay before the Right Honourable Earl Bathurst the enclosed recommendation, and to inform his Lordship, that repeated communications have been received by us, who have subscribed it in this place, from Dr. Thom and Messrs. Murray, Morgan, Fraser &c., Clergymen already settled in the Colony, intimating that there are several vacant Churches there, that owing to the extent of the Districts, and the destitution of the People, in regard to the means of religious instruction, it is of great importance these vacancies should be supplied as speedily as possible, and urging us to recommend as formerly, to his Majesty's Government in

that view, persons properly qualified in regard to talents, acquirements, loyalty, prudence, piety and activity.

These Clergymen express their conviction that as soon as we can recommend any young men sufficiently qualified in these respects, Earl Bathurst, who has the good of the Colonies so much at heart, will appoint them to vacant Churches, especially as His Excellency Lord Charles Somerset has already, they understand, apprised his Lordship of the wants of the Colony in regard to Clergymen, and will, they are persuaded, now that he is in London, do them the honor to confirm their statement, and will be happy to concur with his Lordship in such appointments.

I beg leave to say further, that I am authorised to state, that if it shall please his Lordship to honour Mr. Coll. Turner, and Mr. James Edgar with presentations to two of the vacant Churches, they will receive ordination as soon as possible, and proceed to Holland, in order to acquire the Dutch Language.

I have &c.

(Signed) JOHN MURRAY.

[Enclosure in the above.]

GLASGOW, *September 4th* 1826.

We whose names are undersigned cordially recommend Mr. Coll. Turner, Preacher of the Gospel at Gourook, and Mr. James Edgar, preacher of the Gospel, residing at Glasgow, as fit persons to be appointed to any of the Churches now vacant, or which may become vacant, in the Colony of the Cape of Good Hope. We feel assured that they are possessed of sound religious principles, and we know that they are exemplary in their moral conduct. We entertain the conviction that they will discharge the duties of the Sacred Office diligently and faithfully, and that in the important station to which we take the liberty of recommending them they will prove themselves to be Zealous and laborious ministers of the Gospel.

(Signed) JOHN SMYTH, A.M.,  
Minister St. George's,  
DANIEL DEWAR, L.L.D.,  
Minister of the Tron Church.

## [Office Copy.]

*Letter from R. W. HAY, ESQRE., to MR. THOMAS PRINGLE.*

DOWNING STREET, 20th September 1826.

SIR,—I have to acknowledge the receipt of your letter of the 18th inst., and shall be glad to see you at the Colonial Office to-morrow at half past two o'clock.

I regret that on the several occasions when you state yourself to have called at the Office for the purpose of seeing me, you did not take the precaution of leaving your card, but you might also have prevented the disappointments to which you allude, had you written to me announcing your arrival in London, and expressing your wish to be informed when it might be in my power to receive you. I am &c.

(Signed) R. W. HAY.

## [Office Copy.]

*Letter from EARL BATHURST to LORD CHARLES SOMERSET.*

DOWNING STREET, LONDON, 21 September 1826.

MY LORD,—I have had under my consideration the communication which your Lordship has addressed to me under date of the 31 ultimo, containing the observations which you have felt yourself called upon to make upon a perusal of the Supplementary Report of the Commissioners of Enquiry at the Cape of Good Hope relative to Mr. Bishop Burnett's petition to the House of Commons.

It is much to be regretted that in preparing this Report the Commissioners of Enquiry should have taken so imperfect a view of the several points connected with it upon which your Lordship has enlarged; and in order to afford to the Commissioners an opportunity of supplying the deficiency of information of which your Lordship complains, I have judged it expedient to put them in possession of a copy of your letter, by which means I have every reason to expect that I shall be confirmed in the favorable impression which I entertain of your Lordship's statement. I have &c.

(Signed) BATHURST.

[Office Copy.]

*Letter from R. W. HAY, ESQRE., to LORD CHARLES SOMERSET.*

DOWNING STREET, *September 1826.*

MY LORD,—I am directed by Earl Bathurst to transmit to your Lordship herewith enclosed a dispatch which has been received from Major General Bourke, in which he requests to be furnished with Earl Bathurst's directions in regard to the payment of an account for French Paper which had been supplied from Bourbon for the use of the Government House at the Cape of Good Hope.

It would appear that this Paper has already been paid for by your Lordship, but Earl Bathurst is desirous of receiving from you some explanation as to the expediency which existed for incurring so considerable an expence on the occasion.

I have &c.

(Signed) R. W. HAY.

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[Copy.]

*Ordinance of His Honor the Lieutenant-Governor in Council,  
No. 24, For establishing Matrimonial Courts at Tulbagh,  
Caledon, and Cradock.*

Whereas it is expedient to increase the number of Matrimonial Courts within the Colony, and to invest the Special Heemraden in places where this may conveniently be done with the power of holding the same : Be it therefore enacted, That from and after the date of this Ordinance, Matrimonial Courts shall be, and the same are hereby established within the several Jurisdictions of the Special Heemraden residing at Tulbagh, Caledon and Cradock, the same to be presided by the aforesaid Special Heemraden respectively, who together with Two Heemraden of their respective Districts, or in default thereof, with One Heemraad and One Field-Cornet, or with Two Field-Cornets of



their respective Districts as aforesaid, shall hold their several Sessions for the purpose of Registering Marriages at the least once in every month, upon such day thereof as the said Special Heemraden shall respectively appoint.

II. And be it further enacted, That the Clerks of the several Special Heemraden shall officiate as Secretaries to the said Courts respectively, and that the said Courts shall be governed by the same Rules and Regulations as are prescribed to the Boards of Landdrost and Heemraden, in the several Country Districts, by the Colonial Laws now in force.

III. And be it further enacted, That a Record of the Proceedings of the Courts hereby constituted shall be transmitted Quarterly by the said Special Heemraden to the Matrimonial Courts of their respective Districts of Worcester, Swellendam, and Somerset, to be therein Registered according to Law.

God save the King !

Given at the Cape of Good Hope, this 21st Day of September, 1826.

By Command of His Honor the Lieutenant-Governor,

(Signed) R. PLASKET, Secretary to Government.

By Order of the Council,

(Signed) D. M. PERCEVAL, Clerk of the Council.

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[Office Copy.]

*Letter from* EARL BATHURST *to* MAJOR-GENERAL BOURKE.

DOWNING STREET, LONDON, 22 September 1826.

SIR,—With reference to my dispatch No. 292 of the 1st ultimo, in which I acquainted you that I purposed having some communication with the Lords Commissioners of His Majesty's Treasury upon the subject of the proposed Establishment of a Joint Stock Banking Company at the Cape of Good Hope, I transmit to you enclosed a copy of a letter which has been

received from the Secretary to the Treasury, from which you will perceive, as well as from the two communications therein referred to (of which I likewise enclose copies) that their Lordships concur with me in opinion as to the propriety of the decision of the Council of your Government, upon Mr. Ebden's application, and you will, therefore, abstain from any interference with that Gentleman's proposed Establishment, and act in conformity with the suggestions of The Lords Commissioners of the Treasury. I have &c.

(Signed) BATHURST.

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[Office Copy.]

*Letter from* EARL BATHURST *to* MAJOR GENERAL BOURKE.

DOWNING STREET, LONDON, 25 September 1826.

SIR,—I have to acknowledge the receipt of your dispatch No. 31 under date of the 9th of June last, in which you enclose copies of a letter from the Landdrost of Graaff Reinet and of three Plans for remedying the defective state of the Prison in that Town.

As you are of opinion that it would be expedient to comply with the wishes of Mr. Stockenstrom, and that his proposed alterations of the present building are best calculated to attain the object in view, I have no objection to sanction your incurring an expence not exceeding Eight hundred Pounds Sterling for this Service, and as Mr. Stockenstrom appears very competent to superintend the work, you are at liberty to adopt his suggestions, but you will impress upon him the necessity of curtailing in every possible way the amount of the Estimate which he has transmitted to you. I have &c.

(Signed) BATHURST.

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[Copy.]

*Letter from J. T. BIGGE, ESQRE., to MAJOR-GENERAL BOURKE.*

CAPE TOWN, 25th September 1826.

SIR,—Having joined with my Colleague Major Colebrooke in a representation to Lord Charles Somerset upon the oppressive amount of the judicial costs incurred in the recovery of small debts, I think it my duty to submit to Your Honor's consideration the particulars of a Bill of Costs incurred in the recovery of Taxes due to the Burgher Senate for the year 1822, and amounting to 3 Rixdollars.

I understand that a great number of demands of a similar nature are now transferred to the Sequestrator's office for recovery, and I would beg leave to request your attention to the enclosed Statement, by which you will observe the great disproportion that exists between the extent of duties performed by the Sequestrator and the charges made, but more especially I request your attention to the charge of  $2\frac{1}{2}$  per cent which in cases like the present where no attachment has taken place is positively prohibited by the 67th Article of the Sequestrator's instructions, but which is nevertheless invariably made by the Assistant Sequestrator on account of Government.

At a period in which the lower classes of the community feel the pressure of taxation imposed by the Burgher Senate in a peculiar degree, the augmentation of expence occasioned by the useless forms of the Sequestrator's office must prove as detrimental to the Interests of the People as it is to those of the Burgher Senate.

From an inquiry that I have made into the circumstances of the present case the only duty that I find to have been performed is that of extracting the name of the Debtor from the Sentences sent by the Burgher Senate to the Sequestrator's office, and transferring it to a list that is given to one of the Messengers. His returns do not appear to be endorsed upon the Sentences, but are entered in a book, and if the party comes to the Office to discharge the debt after such verbal notice, the costs charged against him amount to the sum set forth in the enclosed Statement. I have &c.

(Signed) JOHN THOMAS BIGGE.

[Enclosure in the above.]

*Particulars of Judicial Costs incurred in the Recovery of the Sum of 3 Rixdollars, the amount of taxes due by William Aldred for the year 1822.*

## Charges of the Burgher Senate.

	s.	d.
Taxes for one year (1822) . . . . .	4	6
Fine (remitted in this case) 15s.		
Costs of the Burgher Senate . . . . .	3	4 $\frac{1}{4}$

## Charges in the Sequestrator's Office.

Sequestrator . . . . .	2rds.	4sks	
For making out the account of settlement . . . . .	4		
For signing do. . . . .	4		
Head Clerk for registering Sentence . . . . .	1	0	
„ expunging do. . . . .	1	0	
Messenger for appointment . . . . .	1	0	
Do. for making out the account of settlement . . . . .	1	0	
	7	4 or	11 3
2 $\frac{1}{2}$ per cent on 19s. 1 $\frac{1}{4}$ . . . . .			5 $\frac{3}{4}$
Stamp . . . . .			5 $\frac{1}{4}$
			£1 0 0 $\frac{1}{4}$

	s.	d.
Taxes . . . . .	4	6
Charges . . . . .	15	6 $\frac{1}{4}$
	£1 0 0 $\frac{1}{4}$	

Paid by Mr. Aldred 16th September 1826.

(Signed) J. GREGORY.

[Office Copy.]

Letter from R. W. HAY, ESQRE., to MR. JOHN FOURNIER.

DOWNING STREET, 25th September 1826.

SIR,—With reference to your letter of the Inst. I am directed by Earl Bathurst to acquaint you that his Lordship has received and taken into consideration the Report of the



Commissioners of Enquiry at the Cape of Good Hope upon the statement which you have submitted ; and his Lordship regrets to find that there was so much remissness on the part of the Landdrost of Albany in taking the proper steps for ensuring to you the full possession of the property in dispute between you and Mr. Shaw. It appears however by a later Report which was made by Mr. Hayward, that no difficulty would now exist in settling your claim ; but as you have unfortunately parted with the property without waiting for a final decision upon the differences between you and the other parties concerned, it is not in the power of Earl Bathurst to propose any mode for indemnifying you, otherwise than by directing the Lieutenant Governor of the Cape of Good Hope to give you a further grant of Land on such favorable terms as the circumstances of the case will admit. I am &c.

(Signed) R. W. HAY.

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[Copy.]

*Letter from MAJOR-GENERAL BOURKE to J. T. BIGGE, ESQRE.*

GOVERNMENT HOUSE, CAPE TOWN, 26th September 1826.

SIR,—I have the honor to acknowledge the receipt of your letter of yesterday's date, forwarding the particulars of a Bill of Costs incurred in the recovery of Taxes due to the Burgher Senate.

Having spoken to the Sequestrator on the subject I find that all the charges in his office are strictly legal, with the exception perhaps of 5½*d.*, being the charge of 2½ per cent duty to Government, which however the Sequestrator informs me it has been for a time antecedent to his coming into office usual to charge, and which he understands is supported by the legal opinion of the Chief Justice in its favor.

These charges are no doubt very oppressive, yet such is the case generally in all legal proceedings where the amount to be recovered bears no proportion to the trouble attendant on compelling payment. It is however a most important object to remedy as far as may be practicable an evil of this magnitude, and I shall be most happy to coöperate with you to this

effect, either by introducing provisionally such remedial measures as you and your colleagues may have prepared for the consideration of His Majesty's Secretary of State on this particular subject, or by the adoption of some arrangement merely temporary in the utility of which I may concur.

I am aware indeed of many other glaring defects in the Institutions of this Colony which it would be my duty (even with the temporary authority which I possess) to endeavour to remove, or at least to bring immediately under the notice of the Secretary of State, but conceiving that all these matters have been investigated and are about to be reported on by His Majesty's Commissioners of Inquiry, I apprehend it might be thought premature in me to undertake alone their adjustment at this moment.

I shall be happy to learn from you which of the two propositions I have suggested appears to you most expedient. If the latter of the two, I would propose to give an order to the Sequestrator not to allow the costs in any case to exceed the amount of the debt. This would no doubt occasion a considerable loss of Revenue, but would be a great relief to the indigent persons to whom the payment of the most trifling Taxes is burdensome. I have &c.

(Signed) RICHD. BOURKE.

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[Original.]

*Letter from MAJOR-GENERAL BOURKE to EARL BATHURST.*

GOVERNMENT HOUSE, CAPE TOWN, *September 28th 1826.*

MY LORD,—I have the honor to enclose the copy of an Ordinance for establishing Fairs in the Frontier Districts of the Colony, or in what is usually termed the *Neutral Territory*, and for consolidating and reducing into one act the several regulations and enactments which existed relating to the intercourse between the Colcnists and the Tribes on the Borders. I was induced to bring this measure before Council by an application that was made from Albany for the establishment of a second Fair on the Frontier of that District.

Upon looking into the proclamation under which the first was regulated, I found it prohibited Fairs from being held anywhere but at Fort Willshire, and upon searching further into the Statutes I found so many contradictory enactments and such variety of penalty attached to the same offence, from capital punishment to a fine of 500 rixdollars, that I thought it advisable to endeavour to regulate the intercourse with the Border Tribes in a more intelligible manner and with the least possible delay, more especially as the extension of commercial transactions between these People and the Colonists is much desired by both parties and promises to be mutually advantageous. There is at this moment no inconsiderable barter carried on between the Caffres and English Settlers in Albany.

In one particular the enclosed Ordinance may appear defective, as it does not set forth the boundaries of the Colony which have been much extended since the proclamation of Lord Macartney in 1798, tho' as it should seem without any formal enactment to this effect. The Courts of Justice have hitherto acted upon the reputed boundary, or that commonly in use, without reference to the Proclamation of 1798, and this must continue to be the practice until the Frontier is more formally defined. Upon the subject of this extension of the Colony your Lordship will receive the Report of His Majesty's Commissioners of Inquiry, and it may be unnecessary for me to observe further than that it is most desirable that a Commission of perambulation should be appointed with the least possible delay and the proposed line of Frontier regularly surveyed; and that a sketch and report should be transmitted to your Lordship for the consideration and decision of His Majesty's Government, by which the Colonial Government should in future be guided. In the mean time all that can be done is to restrain the Colonists from further encroachment.

I have &c.

(Signed)      RICHD. BOURKE.

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[Office Copy.]

*Letter from R. W. HAY, ESQRE., to JAMES STEPHEN, JUNIOR, ESQRE.*

DOWNING STREET, 29th September 1826.

SIR,—I am directed by Earl Bathurst to transmit to you enclosed for your examination and report thereon, a dispatch from the Lieutenant Governor of the Cape of Good Hope covering a copy of the Ordinance which it was his intention to promulgate for improving the condition of the Slaves in that Colony. I am &c.

(Signed) R. W. HAY.

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[Original.]

*Letter from MR. JOHN FOURNIER to R. W. HAY, ESQRE.*

4 EBURY STREET, PIMLICO, 29th September 1826.

SIR,—In reply to your letter of the 25th Inst., expressing Earl Bathurst's regret at the remissness of the Landdrost of Albany in settling my claims so repeatedly brought under his consideration, and stating that in consequence of my having parted with the property in dispute without waiting the final decision of Mr. Hayward, it was not in his Lordship's power to indemnify me otherwise than by bestowing a further grant of land (which, without assistance, cannot be appropriated), I must beg leave to state that I was compelled to do so in consequence of the losses I sustained from those very grievances for which I petition to be indemnified.

And though I wholly admit with Mr. Hayward "that no difficulty would now exist in settling my claim had I not unfortunately parted with the property," yet I must remind his Lordship that it was upon compulsion and not of my free will that I did it.

I must also be allowed to call his Lordship's attention to the Circular of 1819 which stipulates, "At the expiration of three years the land shall be measured at the expence of Government, and the holder shall receive, without fee, his



title thereto." It was this guarantee, among others, on the part of the Colonial Government, which induced me to embark in the adventure, placing implicit reliance upon it. And it was in consequence of the breach of this guarantee that I was exposed for about a year and a half after the expiration of that time to a continuance of the grievances alluded to, by reason that the Authorities took advantage of it in permitting a merchant to retain the best portion of the land which should have been allotted to me, so much to the detriment of the remaining portion, that it, together with the aggressions &c. it subjected me to obliged me to part with it, as it was, to a great disadvantage, previous to the decision of Mr. Hayward, agreeably to what I had informed his Lordship in the first instance by the statement presented on the 15th September 1825.

This decision however did not take place till 18 months had elapsed from the time the three years had expired which should have entitled me to the land. And as I was not then aware of Mr. Hayward's being on the eve of adjusting the matter, I could see no better prospect of its arrangement than at the first commencement of the dispute. It should therefore be understood that my complaint rests upon its not being done in due time. Being thus compelled to part with the property, however willingly inclined to persevere in my attempts to retain it, I cannot refrain from declaring that I am totally at a loss to understand the justice or merits of the plea under which Earl Bathurst has now come to the above determination solely upon Mr. Hayward's report "that I had unfortunately parted with the property without waiting his final decision," as this is only confirmation of what I myself informed his Lordship, as may be seen by a reference to my statement, wherein it is solemnly affirmed I was unavoidably obliged to do so from the distressed extremity I was reduced to in consequence that the Authorities would not have defined the land which should have been allotted me at the first instance, but was not until a year and a half after the three years the Colonial Government guaranteed I should have had a title to it.

I therefore humbly beg Earl Bathurst will be graciously pleased to reconsider this circumstance, and if his Lordship

should not then think more favorably upon the merits of my case, seeing that I omitted no means in my power of obtaining redress from the Authorities at the Cape without effect ere I applied to his Lordship, I trust my anxious desire to be furnished with the result of the Commissioners' inquiries in my behalf will be granted me, agreeable to the assurance I received from their Secretary at Cape Town, in order that I may be enabled to remove any obstacles appearing unfavorably, by explanation or otherwise, on the supposition that there should be any. I have &c.

(Signed) JOHN FOURNIER.

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[Office Copy.]

*Letter from R. W. HAY, ESQRE., to LORD CHARLES SOMERSET.*

DOWNING STREET, 30 September 1826.

MY LORD,—I am directed by Earl Bathurst to transmit to you enclosed a dispatch which has been received from Major General Bourke, covering copy of a Memorial from Mr. D. van Reenen, Proprietor of an Estate called Brewery, in which he prays to be confirmed in a Grant made to him in the year 1804 by the Batavian Government of certain land lying contiguous to his estate and the Government property at Newlands.

Major-General Bourke has submitted a proposition for meeting the wishes of Mr. Van Reenen without prejudice to the objections which appear to exist to a direct compliance with the prayer of his Memorial ; but Earl Bathurst is desirous of receiving your Lordship's opinion in regard to the propriety of Major General's Bourke's suggestion ; and in the event of your objecting to it that your Lordship should state what you consider to be the best mode of disposing of the land in question, which appears to be of greater extent than ought to attach to Newlands. I have &c.

(Signed) R. W. HAY.

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[Office Copy.]

*Letter from* EARL BATHURST *to* MAJOR-GENERAL BOURKE.

DOWNING STREET, LONDON, 1 October 1826.

SIR,—I have to acknowledge the receipt of your dispatch No. 33 under date of the 10th of June last, enclosing an application from the Landdrost of Uitenhage for a loan to meet the expence of repairing the District Prison which has fallen into a state of dilapidation.

I approve the measures which you have adopted for the purpose of preserving the building from further injury, and I have to authorize you to grant a loan to the district of the sum of Four hundred and sixty Pounds 7/6 being the amount of the lowest of the two Estimates which you have transmitted of the expence required for the thorough repair of the prison.

I am &amp;c.

(Signed) BATHURST.

[Office Copy.]

*Letter from* EARL BATHURST *to* MAJOR-GENERAL BOURKE.

DOWNING STREET, LONDON, 2nd October 1826.

SIR,—I transmit to you enclosed a copy of a letter which has been received from the Foreign Office covering copies of a note and of its enclosures from the Baron de Cetto, His Bavarian Majesty's Minister at this Court, in which it is requested that Mr. Siegreiter of Cape Town may be called upon to account for the disposal of certain property left by one Obermeyer, who died at the Cape in 1819 ; and although I am inclined to think that from the nature of the request it will not be in your power to afford much assistance, I have nevertheless to request that you will take such measures as may be practicable for complying with the wishes of the Baron de Cetto. I am &c.

(Signed) BATHURST.

[Office Copy.]

*Letter from* EARL BATHURST *to* MAJOR GENERAL BOURKE.

DOWNING STREET, LONDON, *3rd October* 1826.

SIR,—I have the honor to acknowledge the receipt of your dispatch No. 35 of the 22nd of June last, in which you explain the reasons which had induced you to defer for the present taking any measures for imposing a head-tax upon Slaves ; and I have to signify to you my approbation of the discretion which you have exercised upon that subject.

I am gratified to learn that you feel yourself enabled to dispense altogether with the Wine Taste Duty ; and the arrangements which you have made for reducing the expence of the Establishments in the Bays are satisfactory. I am &c.

(Signed) BATHURST.

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[Office Copy.]

*Letter from* EARL BATHURST *to* MAJOR-GENERAL BOURKE.

DOWNING STREET, LONDON, *4th October* 1826.

SIR,—I have to acknowledge the receipt of your dispatch No. 36 of the 22nd of June, in which you report for my consideration the appointment of George Rogers Esq. as Registrar and Guardian of Slaves, with a Salary of Five hundred Pounds per annum. And I have in reply to signify to you my approbation of this appointment, and of the arrangements therewith connected, by which you have been enabled to assign a Salary of £500 per annum to the Registrar, without any encreased Charge to the Colonial Treasury. I am &c.

(Signed) BATHURST.

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[Original.]

*Letter from HARRY RIVERS, ESQRE., to EARL BATHURST.*

CAPE TOWN, 4th October 1826.

MY LORD,—The surprise with which I have just heard that Lord Charles Somerset had written to the Cape stating, upon the information given to him by Your Lordship, that the Commissioners of Inquiry had reported that I had voluntarily offered to them the letters of Lord Charles Somerset to me, and that they had not required them from me, will, I trust, justify me in annexing a copy of a letter which I have felt it necessary to address to Lord Charles Somerset unequivocally denying that assertion. The confidential correspondence of the Commissioners on that subject in Your Lordship's possession must be conclusive that no such voluntary proffer was made by me, but that the information elicited from me by the Commissioners, for the purpose of satisfying Your Lordship individually, was obtained under the strict pledge of secrecy and confidence proposed by them, with the additional assurance that it should be confided to Your Lordship personally, and not be extended even to the Under Secretary or any other person. I have &c.

(Signed) HARRY RIVERS.

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[Copy.]*Letter from HARRY RIVERS, ESQRE., to LORD CHARLES SOMERSET.*

CAPE TOWN, 4th October 1826.

MY LORD,—Mr. Perceval having this moment called on me to say that Your Lordship had been informed that the Commissioners of Inquiry had reported to Earl Bathurst that I had “voluntarily offered” to them Your Lordship's letters to me, and that they “had not required” them from me, I feel it due to myself, without loss of time, to deny that assertion most

unequivocally, and were it not for the pledges of secrecy and confidence offered and imposed by the Commissioners, and in which they included Earl Bathurst, I should have no difficulty in substantiating this denial by conclusive evidence. I have fully satisfied Mr. Perceval that such assertion is unfounded, and he has been kind enough to say that he will communicate to Your Lordship his conviction on this point, upon which I am most anxious that Your Lordship should not be misinformed. I should not have hesitated to have obtained from Mr. Bigge his denial of the quoted assertion, had I not been dissuaded from so doing on account of the evident and embarrassing question in which such a contradiction would involve the accuracy of the assertion. I have &c.

(Signed) HARRY RIVERS.

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[Office Copy.]

*Letter from* EARL BATHURST *to* MAJOR-GENERAL BOURKE.

DOWNING STREET, LONDON, 5 October 1826.

SIR,—I have the honor to acknowledge the receipt of your dispatch of the 1st of July last No. 40, and I have only to acquaint you, in reply, that I see no objection to your appropriating to the use of the Government Printing Office, the new set of types which were lately sent out to the Cape to replace those which were to have been transferred from Mr. Bridekirk to Mr. George Greig. I am &c.

(Signed) BATHURST.

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[Original.]

*Letter from* L. SULLIVAN, ESQRE., *to* R. W. HAY, ESQRE.

WAR OFFICE, 5th October 1826.

SIR,—With reference to the correspondence which took place last year on the subject of appointing a successor to the

Revd. Mr. Ireland as Chaplain to the Forces at the Cape of Good Hope, in consequence of his appointment to the Civil Chaplaincy at Graham's Town, I am directed to acquaint you that by a communication from Mr. Ireland it would appear that some misconception has arisen respecting his appointment to the Civil Chaplaincy, which it was not his intention to accept if it required his vacating his Military Commission ; and as Mr. Ireland states that he has made an appeal upon the subject to Lord Bathurst, I am to request that the Secretary at War may be informed of the result thereof. I am &c.

(Signed) L. SULLIVAN.

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[Copy.]

Local Ordinance. (Signed) RICH. BOURKE.

Ordinance of His Honor the Lieutenant-Governor in Council,  
For preserving the BRUSH-WOOD along the Coast at Port Elizabeth.

Whereas the preservation of the Brush-Wood growing on the Sand Hills along the Coast of Port Elizabeth is necessary to prevent the loosening and drifting of the Sand over the adjacent country, to the injury of Private as well as of Public Property : Be it hereby enacted, That from and after the 15th day of October instant, any Person or Persons who shall cut, burn, or otherwise destroy or carry away, or shall employ any other Person to cut, burn, or otherwise destroy or carry away any Bushes or Brush-Wood, on the Waste Lands lying along the Coast of Port Elizabeth, and situated within the limits of the Township thereof, as set forth by the Ordinance No. 1, of His Excellency the Governor in Council, dated 28th May, 1825, shall, upon conviction before the Court of the Resident of that Township, pay a Fine not exceeding Five Pounds Sterling, nor less than Forty Shillings, for every such Offence ; and, in default of payment of such Fine, shall be imprisoned at Hard Labour for One Month ;—and the said Fine shall be sued for by the Public Prosecutor, and be given—

One Half to the Informer, and One Half to the District Treasury.

God save the King !

Given at the Cape of Good Hope, this 5th Day of October, 1826.

By Command of His Honor the Lieutenant-Governor,

(Signed) R. PLASKET, Secretary to Government.

By Order of the Council,

(Signed) D. M. PERCEVAL, Clerk of the Council.

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[Office Copy.]

*Letter from* EARL BATHURST *to* MAJOR-GENERAL BOURKE.

DOWNING STREET, LONDON, 6 October 1826.

SIR,—I transmit to you enclosed a copy of a dispatch which has been received from the Governor of New South Wales, enclosing a copy of a Report from a Board of Enquiry which was appointed to ascertain the identity of a person calling himself William Edwards, who was some time since transported from the Cape to New South Wales ; and you will perceive that this individual was clearly proved to be the Convict Alexander Lockaye who had absconded from the Colony. I am &c.

(Signed) BATHURST.

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[Office Copy.]

*Letter from* R. W. HAY, ESQRE., *to* MR. THOMAS PRINGLE.

DOWNING STREET, LONDON, 6 October 1826.

SIR,—I have to acknowledge the receipt of your note of the 28th ultimo, and I beg to acquaint you in reply that Lord Bathurst will have no objection to allow a Presbyterian Clergyman to be sent out to the Cape of Good Hope in compliance



with the Memorial which has been received from the Inhabitants of the Field-Cornetcy of Baviaan's River, but previous to this measure being carried into effect, it will be necessary that the Minister selected should be approved by the Authorities of the Scotch Church. I am &c.

(Signed) R. W. HAY.

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[Original.]

*Letter from MR. LANCELOT COOKE to R. W. HAY, ESQRE.*

2 ABCHURCH LANE, LOMBARD STREET, 9th October 1826.

SIR,—I beg leave to refer you to my letter of the 15th August last, to which I had requested the favour of a reply, but to this period no answer has yet reached me, having received no communication from you since 26th May; also I called on the 11th September following at the Colonial Office for the purpose of enquiring whether my packet (dated as above) had reached your Department, when I was informed by a Messenger of the Office that “Mr. Hay would not see me.” Why the usual courtesy which I had at all times previously received from Mr. Wilmot Horton and yourself is now denied me I am at a loss to conceive. From the commencement of my correspondence with the Colonial Department (which became my painful duty to perform) I have ever studied the most respectful language concerning it, although firm in describing the peculiar hardship of my unfortunate case; and in appealing to the Right Honourable Earl Bathurst for his due consideration of the subject, in whom I have ever trusted that an appeal would not be made in vain. I am therefore grieved to say that the present slight to my feelings causes an additional pang to my distress and trouble, and which I feel persuaded is not the desire of Earl Bathurst or yourself intentionally to inflict.

Having lost *my all* in the prosecution of a good cause, I am certain that the Earl Bathurst cannot disapprove my conduct in seeking redress, and I have hitherto refrained from making application to any other Power or Authority (since I was

referred from the Treasury) not doubting but the Colonial Department would, when my case was fully considered, see the justice of my claim and redress my wrongs.

On reference to my Petition which I had the honour to address to the Lords Commissioners of His Majesty's Treasury on my arrival in this Country from the Cape of Good Hope, dated 10th December 1824, and which I was duly informed by Mr. Lushington in a letter of the 18th December following was transmitted to your department with the observation that "the consideration of matters of this description more peculiarly belongs," I submit most respectfully that my case has been a *very lengthened period* under the consideration of the Earl Bathurst, whom I earnestly entreat will give his early attention to its merits, and as it relates to the subject of Slaves, for whom his Lordship is so strenuous an advocate and so much interested for, I cannot for a moment doubt that the exertions which I have used on behalf of that unfortunate Race, and the sufferings and losses which were the consequence of it, should be the cause of my utter ruin from an illegal Prosecution by His Majesty's Fiscal under the Government of His Excellency Lord Charles Somerset; and having facts in my possession far stronger than any that are stated in my Memorial to the Lords Commissioners of His Majesty's Treasury of 22nd January 1824, in short the subject of the Prize Slave system was one of *general abuse and outcry* throughout the Colony against the maladministration pursued by the Collector of Customs and others in authority towards these helpless and unfortunate creatures.

I take the liberty to ask if I may be allowed a copy of the Commissioners of Inquiry's Report on my case, which I am informed was transmitted long since from those Gentlemen to the Earl Bathurst, and I anxiously pray that his Lordship will not longer delay communicating with me, as my difficulties are daily increasing, tending only to distress and aggravate the circumstances and expences of my case.

Independent of being personally known to His Excellency Lord Charles Somerset, who once paid me the highest compliment I ever wish to receive in allusion to my character as a Merchant at the Cape, I can refer also to my friend Mr. Richardson Borradaile (of Barge Yard, Bucklersbury) the

Member for Newcastle-under-Lynne, who was lately elected for that place with Mr. Wilmot Horton ; having been a partner in the house of Messrs. Wm. Borradaile & Co. (the Brother to Mr. Richardson Borradaile the Member) which concern I was compelled to quit in consequence of the dreadful and fearful Prosecution to which I was being subjected.

I have likewise several friends and relations who hold respectable appointments under His Majesty's Government in this Country, to whom I could confidently appeal for attachment and loyalty to my King and Country.

With an earnest request that the Lord Bathurst will be pleased to take my case into his early and serious consideration, and that something may be pointed out for the relief of the great loss and injury I have sustained, I have &c.

(Signed) LANCELOT COOKE.

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[Copy.]

Ordinance No. 25. (Signed) RICHD. BOURKE.

Ordinance of His Honor the Lieutenant-Governor in Council,  
For the better Regulation of the POST OFFICE in the  
Colony of the Cape of Good Hope.

Whereas it is expedient, with a view to meet the heavy Expense consequent on the regular transmission of the Mails throughout the extended Districts of this Colony, to alter the Rates of Postage, and to abridge the Privilege of sending and receiving Letters free of Postage, as hitherto enjoyed by sundry Persons, both Civil and Military, within this Colony : Be it therefore enacted, That from and after the commencement of this Ordinance, no Letters or Packets whatsoever, conveyed by the Mails, shall pass free of Postage, except such as are hereinafter mentioned, and under the Provisions and Limitations hereinafter expressed.

II. And be it further enacted, That all Letters and Packets addressed to His Excellency the Governor—His Honor the Lieutenant-Governor—the Commander of the Forces—the Chief Secretary to Government—and the Military Secretary

to the Commander of the Forces, shall pass free of Postage ; as well as all Letters and Packets superscribed by the Officers aforesaid, or by such Persons as may be legally deputed by them for that purpose.

III. And be it further enacted, That Letters addressed to, or superscribed by, the Honorable the Members of Council, shall pass free of Postage ; provided always, that such Letters be not addressed to, or received from, any places beyond the limits of this Colony, and that the number of Letters sent or received by any one of the Members of Council, shall not exceed respectively by any one Post ten Letters, nor any one of such Letters exceed in weight one ounce : And provided further, that all Letters sent by them shall be superscribed with the name of the Member franking the same, and of the place from whence dispatched by Post ; with the date of the month in words at length, and the year in figures—the whole of such superscription or direction being written by the Member of Council franking such Letter.

IV. And be it further enacted, That all Letters and Packets, being on His Majesty's Service only, addressed to, or superscribed by, the Officer Commanding in Chief His Majesty's Ships and Vessels on this Station, and all such Letters and Packets addressed to, or superscribed by, the Principal Officer of the Dock-Yard at Simon's Town, in the absence of the Commanding Officer as aforesaid, shall pass free of Postage.—The Officer Commanding in Chief His Majesty's Ships and Vessels on this Station shall also, individually, have the same privilege of sending and receiving private Letters free of Postage, which is granted under this Ordinance to the Honorable the Members of Council.

V. And be it further enacted, That all Letters and Packets addressed to the Postmaster-General, and superscribed by any of the Deputy Postmasters or other Persons employed in the service of the Post Office ; and all Letters addressed to such Persons, and superscribed by the Postmaster-General, being on Public Service only, shall pass free of Postage ; as likewise Letters to or from Foreign Postmasters, on the service of their respective Post Offices.

VI. And be it further enacted, That all Letters and Packets arriving from the United Kingdom, addressed to Individuals



resident in this Colony, and franked by Persons competent so to do, shall be received at the several Post Offices at the Ports at which such Letters may arrive, and be delivered there free of Postage; and if such Letters be on Public Service, and addressed to other parts of the Colony, they shall be forwarded to their respective destinations free of Postage.

VII. And be it further enacted, That all *single* Letters addressed to Non-Commissioned Officers, Seamen, or Privates, in His Majesty's Navy, Army, Artillery, or Marines, on Service in this Colony, or on the Naval Station thereof, relative to their Private Concerns only, shall be subject to a Postage of *One Penny* each, to be paid on the delivery of such Letters; and if any such Letters, arriving from abroad, shall have already been taxed with the Duty of *One Penny*, they shall be exempt from all Postage in this Colony; provided always, that all such single Letters be directed to such Non-Commissioned Officers, Seamen, or Privates, specifying the Ship, Vessel, Regiment, Troop, Corps, Company, or Detachment to which they may belong: And provided also, that such Letters be delivered to no one but to the Person to whom they shall be directed, or to some Person employed to receive the same by their Commanding Officer.

VIII. And be it further enacted, That all single Letters sent by any Non-Commissioned Officer, Seaman, or Private, in His Majesty's Navy, Army, Artillery, or Marines, actually on Service as such within this Colony, or on the Naval Station thereof, shall be subject to the Postage of *One Penny* only for the conveyance of any such Letter, to be paid on delivery at the Post Office where it is put in: Provided always, that such Letter be superscribed by the Commanding Officer, for the time being, of the Ship or Vessel, Corps, Regiment, or Detachment to which such Non-Commissioned Officer, Seaman, or Private may belong; together with the name of the Writer thereof, and of the Corps or Vessel to which he may belong.

IX. And be it further enacted, That on the arrival of any Vessel from abroad with Bags of Letters (not made up at any of the Post Offices in the United Kingdom,) or with loose Letters addressed to any of the Inhabitants of this Colony, or on the arrival of any Vessel from any of the Ports of this Colony with Letters or Bags of Letters as aforesaid, it shall be

lawful for the Postmaster stationed at the Port or Bay in which such Vessel may arrive, and he is hereby required to pay to the Master, Officer, or other Person, who shall deliver such Letters to the Postmaster, or to the Captain of the Port for transmission to the Post Office, *One Penny* for every Letter bearing Postage so delivered, which amount so paid shall be charged by the Postmaster in his Contingent Account.

X. And be it further enacted, That from and after the commencement of this Ordinance it shall be lawful for the Postmaster-General, and the several Postmasters in this Colony, and they are hereby required to demand and receive for each Printed Newspaper or Journal *One Penny*, to be paid on being put into the Post Office,—provided that such Newspaper or Journal be sent without cover, or in a cover open at the sides, and it shall be lawful for the Postmaster-General, and Postmasters throughout the Colony to examine and search any Packet sent without a cover, or in a cover open at the sides, in order to discover whether any other paper or thing whatsoever be enclosed with such Printed Paper permitted to be sent at the Rates aforesaid, and in order to discover whether the said Printed Papers, liable to Stamp Duty, shall have been duly stamped; and in case any other paper or thing whatsoever shall be found to be enclosed or concealed in or with such Paper as aforesaid, or in case there shall be any writing other than the superscription upon such Printed Paper, or upon the cover containing the same, the whole of such Packet shall be charged with Treble the Postage of a Letter; and in case any Newspaper, or other Printed Paper liable to Stamp Duty, shall appear not to have been duly stamped, every such Postmaster is hereby required to stop the same, and send it to the Commissioner of the Stamp Duties in Cape Town: Provided always, that no Charge shall be made for the conveyance of the *Government Gazette* by Post throughout the Colony.

XI. And be it further enacted, That all Printed Newspapers and Journals arriving from abroad, addressed to any Person residing in this Colony, shall be delivered at the Post Office of the Port where the Vessel conveying the same shall arrive free of Postage; and if forwarded by the Inland Post, shall be chargeable with *One Penny each* on delivery thereof.

XII. And be it further enacted, That all Printed Papers to

be conveyed under the Provisions of this Ordinance, shall be delivered to the Postmaster-General, or his Deputy, or Deputies, at such hours in the day and under all such Regulations as the Postmaster-General for the time being shall from time to time appoint.

XIII. And be it further enacted, That from and after the commencement of this Ordinance, the sums to be demanded and received by the several Postmasters throughout the Colony for the conveyance of Letters or Packets, shall be according to the amount expressed in the Table of Rates hereunto annexed, and no other.

XIV. And be it further enacted, That it shall and may be lawful for the Chief Secretary to Government, and the Military Secretary to the Commander of the Forces, to nominate and appoint from time to time one Clerk or other Person in their respective Offices to Frank, by affixing his Signature thereto, all such Letters and Packets, on Public Service only, as may require to be dispatched by Post from their respective Offices : Provided always, that due notice is given to the Postmaster-General, in Cape Town, of the appointment of such Persons for the discharge of this duty.

XV. And whereas it is expedient to prevent Persons not legally authorised from carrying Letters and Packets to the injury of the Revenue of the Post Office, Be it therefore enacted, That no Person or Persons whatsoever other than the Postmaster-General, his Deputy or Deputies, Servants, or Agents, or other Persons acting under the authority of this Ordinance, shall receive for conveyance, or shall convey or deliver any Letter or Packet, or make any collection thereof for conveyance or delivery within those parts of this Colony through which the line of Post now established, or hereafter to be established, does or shall extend, on pain of forfeiting, on conviction thereof, a sum not exceeding *Five Pounds*, nor less than *Ten Shillings*, for every offence so committed against the tenor and meaning of this Ordinance : Provided always, that nothing herein contained shall extend to prevent the transmission of Letters on the Public Service by special Messengers, or of Private Letters by Servants, or other hired Persons, such Letters being *bonâ fide* on the business of their Masters or Employers only ; or the conveyance of Letters by private

hands, if delivered at the Post Office of the Place to which they are addressed, and superscribed with the name of the Post Town nearest to the Place from whence taken, to be stamped and charged upon delivery according to the Table of Rates.

XVI. And be it further enacted, That in case any Public Officer receiving Letters on Public Service, free of Postage, shall receive under cover to him any Letter or Packet, not being on His Majesty's Service, intended for or directed to other Persons, with intent to evade the payment of Postage, every such Officer is hereby authorised and required to send such Letter to the nearest Post Office, with a Certificate stating the place from whence such Letter was dispatched by Post, under cover to him, in order that such Letter or Packet may be charged with the duty of Postage payable thereon: And in case any Member of Council or other Person privileged under this Ordinance to receive private Letters free of Postage, shall receive under cover to him, any Letter intended for any other Person, and addressed to him, without his knowledge and consent, with the intent to evade the payment of Postage, notwithstanding such Letter may be within the number such Person is authorised to receive by each Post, such Member of Council, or other Person so privileged under this Ordinance, shall, and he is hereby authorised and required to send such Letter to the nearest Post Office, with a Certificate stating the place from whence such Letter was dispatched by Post, under cover to him, in order that such Letter may be charged with the duty of Postage payable thereon.

XVII. And be it further enacted, That if any Person or Persons shall forge or counterfeit the Hand-writing, or make use of the Name of any Person whatsoever, in the Superscription of any Letter or Packet to be sent by Post in this Colony, in order to avoid the Payment of the Duty of Postage thereon; or shall forge, counterfeit, or alter, or shall procure to be forged, counterfeited, or altered, with the intent aforesaid, the Date, Place, or any other part of the Superscription of any such Letter or Packet; or shall send by the Post in this Colony, any Letter or Packet, the Superscription or any part whereof shall be forged, counterfeited, or altered, in order to avoid the Payment of the Duty of Postage thereon, knowing the same to be forged, counterfeited, or altered—every Person



so offending shall, on conviction thereof, forfeit and pay the Sum of *Fifty Pounds* Sterling for the first Offence, or in default of payment be imprisoned for Six Months, with Hard Labour ; and for the second Offence, shall forfeit and pay the Sum of *One Hundred Pounds* Sterling, or in default of payment shall be imprisoned for Twelve Months, with Hard Labour ; and for the third Offence, shall be transported for Seven Years to New South Wales, or to such other place as to His Majesty may seem meet.

XVIII. And be it further enacted, That all Penalties incurred under the Provisions of this Ordinance shall be sued for by the Public Prosecutor ; and all Fines and Forfeitures shall be given, One Half to the Informer, and One Half to the Colonial Treasury.

XIX. And be it further enacted, That this Ordinance shall take effect and be in force from and after the 15th day of November next.

God save the King !

Given at the Cape of Good Hope, this 9th Day of October, 1826.

By Command of His Honor the Lieutenant-Governor,

(Signed) R. PLASKET, Secretary to Government.

By Order of the Council,

(Signed) D. M. PERCEVAL, Clerk of the Council.

Established under the Ordinance of His Honor the Lieutenant-Governor in Council, No. 25, of the 9th of October, 1826:—  
Direct and Intermediate Rates on the Post Route to the Eastern Frontier.

To and from Cape Town to	To and from Cape Town to	Somerset (Hottentots Holland).	Caledon.	Swellendam.	Port Beaufort.	George.	Plettenberg's Bay.	Uitenhage.	Port Elizabeth.	Graham's Town.	Bathurst.	Port Frances.	Graaff Reinet.	Somerset.	Cradock.
Somerset (Hottentots Holland)	3d.	5	2d.	3d.	3d.	6d.	5d.	8d.	2d.	6d.	3d.	1d.	7d.	3d.	7d.
Caledon		5	2d.												
Swellendam		7	4	3d.											
Port Beaufort		8	6	4	3d.										
George		9	7	6	5	6d.									
Plettenberg's Bay		11	9	8	7	6	5d.	8d.	2d.	6d.	3d.	1d.	7d.	3d.	7d.
Uitenhage		10	9	8	7	8	6								
Port Elizabeth		11	10	9	8	9	7	9	4	7	4	7	4	3d.	7d.
Graham's Town		12	11	10	9	10	8	10	5	7	6	7	6	3	7d.
Bathurst		13	12	11	10	11	9	11	5	7	7	7	7	4	7d.
Port Frances		13	12	11	10	11	9	11	5	7	7	7	7	4	7d.
Graaff Reinet		12	11	10	9	10	8	10	4	6	6	7	7	4	7d.
Somerset		13	12	11	10	11	9	11	5	7	3	4	4	3	7d.
Cradock		13	12	11	10	11	9	11	5	7	3	4	4	3	7d.
Beaufort		13	12	11	10	11	9	11	5	7	9	10	10	6	7d.

*Direct and Intermediate Rates on the Post Route to  
the Northern Frontier.*

To and from Cape Town to	To and from Cape Town to	Stellenbosch.	The Paarl.	Tulbagh.	Worcester.
Stellenbosch . . .	3d.				
The Paarl . . . .	4	2d.			
Tulbagh . . . . .	6	5	4d.		
Worcester . . . . .	7	6	5	3d.	
Clanwilliam . . . .	8	7	6	4	6d.

To and from Cape Town and Simon's Town 2d. To and from Simon's Town, to any Place beyond Cape Town, 1d. above the Rates between that Place and Cape Town.

N.B.—Double Letters are to be charged double the Price of a Single Letter; Treble Letters, three times the Price; Letters of one ounce weight, four times the Price; and so in proportion for every Letter exceeding one ounce in weight.

*Ship-Letter Rates.*

Ship-Letters sent from, and brought into, the Colony, Single 4d., Double, 8d., 1 Ounce 1s.

Ship-Letters if conveyed by Inland Post, 4d. only, in addition to the Inland Rates.

Newspapers sent from the Colony, each 1d.

Newspapers sent by any Inland Post, each 1d.

[Original.]

*Letter from LORD CHARLES SOMERSET to R. W. HAY, ESQRE.*

48 LOWER GROSVENOR STREET, LONDON, 12th October 1826.

SIR,—I have had the honor to receive your letter transmitting to me a Dispatch addressed to Earl Bathurst by Major General Bourke, under date 30th June last, with

enclosures, and conveying to me His Lordship's desire that I should report upon a recommendation of Major General Bourke's relative to an application from Mr. D. van Reenen for some land situate immediately behind Newlands.

Mr. Van Reenen is one of the worthiest and most respectable inhabitants of the Cape, and has exerted himself most meritoriously in attempts to produce articles of export from the Colony, and at great expense has erected distilleries to produce a superior Brandy ; indeed I know of no one who merits a favour from the Colonial Government more justly than Mr. Van Reenen, but I have hitherto been induced to resist Mr. Van Reenen's solicitations for the land now in question, from two motives : 1st from Lord Caledon having felt himself bound to refuse it, and that refusal having been sanctioned and approved by Lord Liverpool (*then* Secretary of State for the Colonies), and 2ndly from the very serious nuisance which the alienation of ground so immediately contiguous to the House at Newlands could not fail to be to the occupant of that place.

In looking over the chart which accompanies these papers, I have been struck with the very extraordinary omission of the Surveyor in not having denoted in any manner in that part marked A (and which is recommended to be sold) the spring of water by which *alone* the house and garden at Newlands are supplied. The disposing of that piece of ground would therefore render Newlands uninhabitable and valueless, for even if in the terms of sale a clause were introduced to secure the water to Newlands, the constant trespassing upon it by Cattle and Negroes would soil it, and so greatly damage the course that it would become an insufferable nuisance and give rise to endless litigation.

I am greatly surprised at the value put on the land solicited by Mr. Van Reenen, nor can I be led to believe that any one would be found to give that sum for it, except with the expectation of making some advantageous compromise with the occupant of Newlands, from being in possession of such ample means of annoying him.

It may perhaps be expected that as the Surveyor has omitted to describe the nature of the ground, I should say a few words on that subject. The whole is on an acclivity ; the lower part is chiefly covered with a bush called wild Almond, useless for



any purpose, as it will not burn ; the soil stony except in patches, which are given to the Government Slaves for their private gardens. There are patches also of red clay, which in repairs of stone masonry is used in lieu of mortar, and causes considerable saving, there are also about three acres of young wood which I planted about seven years since. Higher up the mountain there is, I believe, some timber, but the mountain is there so steep that I conceive the difficulty of obtaining it would not be compensated. This is a point that I think should be ascertained by a competent judge before the timber is alienated.

Should Earl Bathurst consider that it would not be expedient to alienate the land in question, I beg to add that it would give me great satisfaction to learn that His Lordship authorized some compensation being made to Mr. Van Reenen in the shape of a Grant that might be acceptable to him. I have &c.

(Signed) CHARLES HENRY SOMERSET.

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[Office Copy.]

*Letter from R. W. HAY, ESQRE., to MR. LAUNCELOT COOKE.*

DOWNING STREET, 13 October 1826.

SIR,—I have to acknowledge the receipt of your letter of the 9th instant.

I do not recollect to have heard of your having called in Downing Street at the time which you mention, and I must presume that it was at a moment when I was too unwell to receive you ; but I shall be glad to see you when I return to London, which will be in the course of a fortnight. I am &c.

(Signed) R. W. HAY.

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[Office Copy.]

*Letter from R. W. HAY, ESQRE., to the REVEREND JOHN MURRAY, A.M., Aberdeen.*

DOWNING STREET, 14 October 1826.

SIR,—I have had the honor of laying before the Earl Bathurst the letter which you addressed to Mr. Wilmot Horton on the 19th ultimo, in which you submit the names of two Gentlemen who are desirous of receiving Clerical appointments at the Cape of Good Hope ; and I am in reply to express to you his Lordship's regret that he feels himself precluded from complying with the wishes of those Gentlemen, as measures have already been taken for supplying as many Presbyterian Clergymen as were required for the present. I am &c.

(Signed) R. W. HAY.

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[Original.]

*Letter from MAJOR-GENERAL BOURKE to EARL BATHURST.*

GOVERNMENT HOUSE, CAPE TOWN, October 16th 1826.

MY LORD,—I have the honor to enclose copies of two Ordinances which have passed Council, but the promulgation of which has been suspended until His Majesty's pleasure is made known ; as tho' both refer to subjects of very considerable importance, yet neither is of so urgent a nature as to require immediate adoption.

The Quarantine Act has been chiefly prepared by Sir Richard Plasket to whom from having resided for some time in the Mediterranean this subject is familiar. There are at present no Quarantine laws established here, but the Governor publishes a proclamation whenever he desires to prohibit communication with any particular Vessel, and usually has regulated the means for preventing a breach of Quarantine

and the quantum of punishment for such an offence upon the spur of the moment. The People are under great apprehension of Small Pox and Measles, by the latter of which diseases especially they have on its occasional introduction from abroad lost considerable numbers of Slaves, and are desirous of seeing a well regulated preventive system established here. Being aware that the subject has lately undergone much discussion in England, I deemed it advisable to submit this Ordinance for your Lordship's consideration before it should be promulgated. I have to observe that in the meantime there is an officer of health in employment, and Ships are visited and reported on by him and the Port Captain.

The Ordinance for increasing the jurisdiction of the Landdrosts' court in civil cases was brought before Council in consequence of a Memorial from the Inhabitants of Albany complaining of the hardship to which they are exposed by being obliged to proceed from that distant District to Cape Town to recover the amount of any debt exceeding in value £22 10s. sterling, or otherwise to wait (a year perhaps) for the Commission of Circuit. When the Ordinance was before Council it was deemed advisable to extend the jurisdiction of all the Boards of Landdrosts including that of the Cape District, whose sittings are held in this town, in which the Court of Justice sits also. The plea for including this Board in the proposed regulation is the superior cheapness of the Landdrosts' work. As however this has altogether changed the principle of the measure, and as it may interfere with the proposed arrangements for the new Courts, I have thought it most proper to send this draft for your Lordship's consideration, requesting that if the new Courts are not likely to be soon established, or if this extension of the powers of the inferior Tribunals in all the Districts does not appear objectionable, that your Lordship may be pleased to return it for adoption. Notwithstanding that it may appear hazardous to leave the decision of a cause involving property of any or every description to the amount of so large a sum as £60 to a Court composed of three or four Persons not professionally educated, nor generally speaking of much information, yet if the Superior Courts of the Colony are to remain on their actual footing, or if the Settlement is not likely to be soon divided, I would

recommend to your Lordship to approve of the promulgation of this Ordinance. I have &c.

(Signed)      RICHD. BOURKE.

(As all Ordinances when published are given, I do not think it necessary to copy the drafts annexed to the above letter.—  
G. M. T.)

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[Original.]

*Letter from MAJOR-GENERAL BOURKE to EARL BATHURST.*

GOVERNMENT HOUSE, CAPE TOWN, 17th October 1826.

MY LORD,—I have the honor to acknowledge the receipt of your Lordship's Despatch No. 240 of 24th January last, giving cover to a representation which had been made by a Mrs. Erith complaining of the treatment she had experienced while preferring claims upon this Government for money alleged to be due to her husband.

In reply to this statement I beg leave to annex copies of some official correspondence which passed relative to Mrs. Erith's claim on Government and to her own situation, by which your Lordship will perceive that everything that possibly could be done by this Government to assist her was effected, that she received, at the instigation of the local Government the balance of ration account due to her husband from the Commissariat Department, and with regard to the amount of Cattle stolen by the Caffres from her husband, that the Government authorised the Landdrost of Albany to sell on Mr. Erith's account, the first recaptured cattle placed at his disposal, and in the mean time an allowance of 30 Rixdollars a month was made to Mrs. Erith on account thereof, which she after a month or two declined any longer to receive.

Your Lordship will further perceive that Government applied to the Commanding Officer of His Majesty's Naval Forces to assist Mrs. Erith in procuring a passage to England, although without success; and in regard to her complaint of the Chief Secretary to this Government refusing to listen to her distresses, the letters herewith enclosed will shew that she attri-



buted the recovery of her claims on Government to the exertions and interest of that officer alone. I have &c.

(Signed) RICHD. BOURKE.

[The enclosures in this letter have already appeared.]

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[Original.]

*Letter from MAJOR-GENERAL BOURKE to EARL BATHURST.*

GOVERNMENT HOUSE, CAPE TOWN, 18th October 1826.

MY LORD,—In compliance with the instructions contained in your Lordship's circular despatch of 1st September 1825 addressed to His Excellency Lord C. H. Somerset, I do myself the honor of transmitting the accompanying returns relative to the Slave Population of this Colony, as required by the House of Commons.

1st. A Return of the number of Slaves imported into, or exported from the Cape of Good Hope, from 1st January 1821 to 31st December 1825.

2nd. A Return of the number of manumissions effected during the same period, with a statement of the fees charged on each manumission.

3rd. A Return of the number of marriages legally solemnized between Slaves during the same period.

4th. Copy of a Proclamation issued on the 18th March 1823, in which the marriage of Slaves is authorized, and their conjugal rights recognized and secured.

5th. A Return of the number of Slaves taken and sold in execution for debt, from the 1st January 1821 to 31st December 1825.

6th. A Return of the free Black and Slave population from 1st January 1821 to 31st December 1824.

7th. A Return of the number of births and deaths that have taken place among free Blacks and Slaves for the same period.

No Slaves have been sold for the recovery of taxes.

Lord C. H. Somerset having transmitted to Mr. Wilmot Horton in his letter of the 27th February last detailed returns (as required by the House of Commons) of all persons com-

mitted to gaols as runaways or apprehended deserters, but who claimed to be free persons, from the year 1812 to 1825, I presume it is unnecessary that I should forward to your Lordship additional copies of these documents.

Upon instituting inquiry into the subject, I do not find that any Slaves have ever become the property of the Crown by escheat ; the estates of individuals dying without heirs in the Colony having invariably been administered by the Orphan Chamber for the benefit of the unknown or foreign heirs, and the Slaves sold. Nor does it appear to have been the practice in this Colony to levy money for the support of the Poor, the relief given to paupers being voluntary on the part of the Public. I have &c.

(Signed)      RICHD. BOURKE.

[Enclosure 1 in the above.]

List of Slaves imported into or exported from the Cape of Good Hope *via* Table Bay by Licence or otherwise, between 1st January 1821 and 31st December 1825.

11th June 1824. One female domestic Slave from Mauritius by G. W. Prince, Merchant of Cape Town, under the Act of the 46th Geo. 3, Cap. 52, on his return from thence to his residence in Cape Town.

No Slaves have been imported into or exported from Simons Bay during the period here stated.

[Enclosure 2 in the above.]

Return of the number of Manumissions effected by purchase, bequest or otherwise at the Cape of Good Hope from the 1st January 1821 to the 31st December 1825, specifying the date of each Manumission, the name, sex, and age of the person manumitted, the fee paid in this Department for such Manumission, and as far as practicable the price paid for the Slave's redemption and at whose expense the same was effected.

[These lists contain the names and other particulars as above of one hundred male and one hundred and twenty-seven

female slaves, of whom seven are entered as having purchased their freedom themselves. I do not think it necessary to copy the lists.—G. M. T.]

It has not been possible in the greater number of manumissions to insert the price paid for the Slave's redemption, nor the name of the person at whose expense the same was effected, as the Department has no authority to inquire into these circumstances, and in the instances in which they have been inserted the information, (which has been derived from the conditions attached to the names of the Slaves in the Registers), can in no wise be depended upon.

And with respect to the Fee of Ten Rixdollars Two Skillings formerly received in the Offices of this Department upon the Manumission of a Slave Four Rixdollars and Two Skillings were paid upon the Stamps upon which the deed was drawn, and the remaining Five Rixdollars carried to the account of Government with the other Fees of this Department, but this has been discontinued since the 7th October 1824 in consequence of a letter from Government to that effect, and no Fee of any description is at present chargeable in this Department upon Deeds of Emancipation.

Slave Registry Office,

Cape Town, 3rd February 1826.

(Signed) G. A. ROGERS, Inspector.

*Statement of the Expences attending the Manumission of a Slave  
at the Cape of Good Hope.*

1. The Memorial to Government, which is usually written on a Stamp of 4 Skillings or 9 pence. The permission of Government was formerly granted on a Stamp of One Rix-dollar (1s. 6d.), but for some time past no Stamp has been used for this permission.

2. The payment of Fifty Rixdollars to the funds of the Reformed Church, in addition to which two persons must bind themselves that the Slave so manumitted shall not become burthensome to the Church within a period of twenty years. If the Slave however has been baptized the payment is not

made to the Church funds nor security demanded, and latterly also in the case of heathens His Excellency the Governor has been pleased to dispense with the payment to the Church upon security being given that the emancipated Slave shall not become a burthen to the Church funds during his or her life time.

(Signed) G. J. ROGERS, Inspector.

[Enclosure 3 in the above.]

Return of the number of Marriages legally solemnized at the Cape of Good Hope between Slaves from 1st January 1821 to ultimo December 1825.

These returns show five marriages to have been solemnized at Simonstown, eight at Stellenbosch, and one at Graaff Reinet, fourteen in all.

No marriages between Slaves have been solemnized in the other Districts of the Colony.

[Enclosure 4 in the above.]

See the Proclamation of the 18th of March 1823.

[Enclosure 5 in the above.]

Return of the Number and Names of Slaves taken and sold in execution for debt by the Sequestrator's Department at the Cape of Good Hope, since the 1st January 1821 to the date of this Return, specifying the date of seizure and of sale, the names of the owners, the sex and age of the Slaves and their relation to each other, the lots in which and the prices at which they were sold, and the names of the Purchasers.

This Return contains 873 names of slaves sold, with all the particulars described above. It would occupy at least forty-five pages in print in very small type, and therefore as it is not of importance now I have not copied it. It is dated at the Sequestrator's office on the 31st of July 1826, and is signed V. A. Schönberg, Sequestrator.—G. M. T.



[Enclosure 6 in the above.]

Return of the Free Black and Slave Population at the Cape of Good Hope from 1st January 1821 to 31st December 1824.

1821. Free Blacks : Male 899, Female 972 ; Hottentots : Male 14,395, Female 14,628 ; Negro Apprentices : Male 1,045, Female 526 ; Slaves : Male 19,327, Female 13,075 ; Total : Male 35,666, Female 29,201 ; General total 64,867.

1822. Free Blacks : Male 913, Female 983 ; Hottentots : Male 14,487, Female 14,314 ; Negro Apprentices : Male 1,029, Female 532 ; Slaves : Male 19,222, Female 13,310 ; Total : Male 35,651, Female 29,139 ; General total 64,790.

1823. Free Blacks : Male 891, Female 1,098 ; Hottentots : Male 15,336, Female 15,213 ; Negro Apprentices : Male 1,118, Female 652 ; Slaves : Male 19,786, Female 13,412 ; Total : Male 37,131, Female 30,375 ; General total 67,506.

1824. Free Blacks : Male 1,411, Female 1,481 ; Hottentots : Male 15,487, Female 15,662 ; Negro Apprentices : Male 912, Female 534 ; Slaves : Male 18,418, Female 13,326 ; Total : Male 36,228, Female 31,003 ; General total 67,231.

[Enclosure 7 in the above.]

Return of the number of Births and Deaths that have taken place among the Free Black and Slave population at the Cape of Good Hope from 1st January 1821 to 31st December 1824.

1821. Free Blacks : Births 828, Deaths 288 ; Slaves : Births 794, Deaths 469 ; Total : Births 1,622, Deaths 757.

1822. Free Blacks : Births 972, Deaths 430 ; Slaves : Births 730, Deaths 589 ; Total : Births 1,702, Deaths 1,019.

1823. Free Blacks : Births 655, Deaths 320 ; Slaves : Births 1,153, Deaths 673 ; Total : Births 1,808, Deaths 993.

1824. Free Blacks : Births 1,099, Deaths 774 ; Slaves : Births 1,026, Deaths 685 ; Total : Births 2,035, Deaths 1,459.

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[Original.]

*Letter from MAJOR-GENERAL BOURKE to EARL BATHURST.*

GOVERNMENT HOUSE, CAPE TOWN, 19th October 1826.

MY LORD,—I have the honor to inform your Lordship that the accounts of this Government for the year 1825 have this day been transmitted by His Majesty's Ship *Alligator* to the Commissioners for auditing Colonial Accounts. I have &c.

(Signed) RICHD. BOURKE.

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[Office Copy.]

*Letter from R. W. HAY, ESQRE., to J. RENNIE, ESQRE.*

DOWNING STREET, 19th October 1826.

SIR,—I am directed by the Earl Bathurst to transmit to you enclosed a dispatch from the Lieutenant Governor of the Cape enclosing the answers of Commodore Christian and of Major Holloway to the questions which have been proposed by you in regard to a Breakwater for the harbour of Cape Town. I am &c.

(Signed) R. W. HAY.

P.S. The papers enclosed being in original, it is requested, may be returned.

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[Office Copy.]

*Letter from EARL BATHURST to MAJOR-GENERAL BOURKE.*

DOWNING STREET, LONDON, 20 October 1826.

SIR,—With reference to my dispatch of the 5th of March last, upon the subject of the Government Farms, I have to desire that until these establishments be finally regulated or disposed of, care be taken that the expenditure and Receipts connected with them may be authorized and vouched in a regular manner, and included in the Accounts of the Colony which are sent home for examination. I am &c.

(Signed) BATHURST.

[Original.]

*Letter from MAJOR-GENERAL BOURKE to EARL BATHURST.*

GOVERNMENT HOUSE, CAPE TOWN, 20th October 1826.

MY LORD,—I have the honor to forward the copy of an Ordinance which has been passed by Council and promulgated. It was introduced in consequence of an application from the inhabitants of Cradock, and the object is to establish Matrimonial Courts in certain towns in this Colony where there are churches and civil magistrates, but from whence the people were obliged to go a great distance to effect the civil part of the contract of marriage before the competent Court at some expense and much inconvenience.

I conceived it advisable to remove the subject of complaint without further delay, and trust your Lordship will approve of the means by which it has been effected. I have &c.

(Signed) RICHD. BOURKE.

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[Office Copy.]*Letter from EARL BATHURST to MAJOR-GENERAL BOURKE.*

DOWNING STREET, LONDON, 21 October 1826.

SIR,—I transmit to you herewith enclosed, a copy of a letter which has been received from the Foreign Office, covering copy of a note from the Danish Charge d'Affaires, in which he requests information in regard to an individual named Francis Abraham Christian a Danish Subject, who was resident in the Cape of Good Hope in the year 1788 ; and I have to request that you will institute such enquiries as will enable me to comply with the Danish Minister's request. I am &c.

(Signed) BATHURST.

[Office Copy.]

*Letter from* EARL BATHURST *to* MAJOR-GENERAL BOURKE.

DOWNING STREET, LONDON, 22 October 1826.

SIR,—I have the honor to acknowledge the receipt of your dispatch No. 45, under date of the 18 of July last, in which you report the measures which you had adopted for causing the Slave Ordinance to be published, and you enclose petitions from the Burgher Senate, from the inhabitants of Cape Town, and from the Owners of Slaves in the District of Stellenbosch, praying for the repeal or suspension of part of this Ordinance. And I have in reply to your dispatch to signify to you my approbation of the several measures which you have adopted in connection with the publication of the Ordinance.

I am &c.

(Signed) BATHURST.

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[Office Copy.]

*Letter from* EARL BATHURST *to* MAJOR-GENERAL BOURKE.

DOWNING STREET, LONDON, 23 October 1826.

SIR,—I have had under my consideration your dispatch No. 25, under date of the 24 of May last, together with an application therein enclosed from the Superintendent of Government Works and Buildings, relating to the payment of the sum of Five hundred and seven pounds  $7/8$  for a quantity of Foreign Paper which had been ordered by the Governor for the decoration of the Government House; and I have to acquaint you in reply, that as I am informed by the Governor that it was from considerations of economy that he was induced to order this paper from a foreign Country, I am not disposed to withhold my sanction from the charge attending the supply of that article. I am &c.

(Signed) BATHURST.



[Original.]

Letter from MR. THOMAS PRINGLE to R. W. HAY, ESQRE.

8 ARUNDEL STREET, STRAND, LONDON, October 23rd 1826.

SIR,—After duly considering the contents of your letter of the 10th of February last, and reflecting on the conversations that I have subsequently had with you at the Colonial Office, I perceive clearly that I have nothing to expect from His Majesty's Government on the ground of *compensation* for the losses I have sustained at the Cape. I am fully sensible that however strong I may still consider my own claims, and however much mistaken or misled I may conceive the Commissioners of Inquiry to be, in the general view they seem to have taken of my case, it would be utterly futile for me to attempt, under present circumstances, to impugn their testimony or to expect that anything I might now urge would alter Earl Bathurst's decision upon it.

I therefore abandon this ground ; but in doing so I wish to be clearly understood I abandon it not from the conviction that my claims or my allegations have been in any *essential point* unfounded, but because I am aware that Lord Bathurst must necessarily decide as he has done upon the Report that has been remitted to him, even though that Report should ultimately prove to be (as I think it will) very unjust in regard to me.

As matters now stand I do not, however, (deeply as I feel aggrieved) impute any blame whatever to Earl Bathurst, of whose prompt attention in remitting my complaints for investigation I am duly sensible. Neither will I, without having seen the Commissioners' Report, rashly venture to ascribe an *intentional* unfairness to them ; but I reserve to myself the privilege, should I hereafter find it expedient, to address His Lordship further on this subject.

At present I respectfully solicit Earl Bathurst's attention to the following points. It appears that the Commissioners, though they have admitted none of my grounds of complaint against Lord Charles Somerset, and have denied, defended, or explained away even the most questionable of his expressions and proceedings in regard to me, have nevertheless spoken

favourably of my conduct in other respects. My zeal, activity, and success as the leader of a party of Settlers have been admitted. It is also fully admitted, I believe, that my demeanour towards the local authorities was uniformly characterized by propriety and due respect. It is admitted that during my residence in the Colony I never had the slightest misunderstanding with any individual either in office or out of it, with the exception of Lord Charles Somerset and Mr. Denysen the Fiscal in regard to the second number of the *South African Journal*. Such are allowed to be my negative merits, for they are, it seems, considered merely *negative*, since your letter states that it has not appeared to the Commissioners that I have any claim on these grounds to any further indulgence even as a Settler.

But from the opinion of the Commissioners on this point I appeal to Earl Bathurst himself, and with the greater confidence, inasmuch as I perceive from the conclusion of your letter that, notwithstanding the report, His Lordship was disposed of his own accord to afford me some further encouragement as a Settler. I respectfully submit to His Lordship whether I do not merit some favourable consideration on account of my exertions as the leader of the Scotch Party, and whether my conduct in that capacity as reported upon by the Magistrates of the District in which we were located, may not be advantageously compared with that of any other emigrant in similar circumstances. Yet neither myself nor any of my party (and the Commissioners of Inquiry expressed some surprise when I stated the fact to them) ever received any pecuniary aid from the Government, whilst others with far inferior claims were receiving it. But when, on hearing that money had been sent out from the Home Government to be lent to the Settlers I made application on behalf of an individual of my party (Mr. C. Sydserff) to Mr. Rivers who was entrusted with the distribution of this money, that functionary never thought fit to reply to my letter; and when I subsequently made similar application at higher quarters I was told that it was too late.

But it is not merely as a Settler that I venture to advance my claim to Earl Bathurst's favourable consideration. Convinced that His Majesty's Home Government is unfeignedly

anxious to promote the intellectual and moral improvement of the Colony, and that Lord Bathurst's judgment is too candid and enlightened to be influenced on such points by partial views and petty prejudices, I do humbly presume to expect that my zealous exertions to benefit the Colony as an Author and Editor will not be altogether overlooked, nor allowed to result in disappointment and ruin to myself. For the purity of my objects I refer with confidence to the general spirit and purport of all that I have written or edited in the Colony. I refer especially to the two numbers of the *South African Journal* and to a little tract on behalf of the distressed Settlers which was published in England. A copy of the latter I have now the honour of enclosing, together with the printed papers relative to the institution of a Literary and Scientific Society in Cape Town, a subject in regard to which I am aware that my conduct and motives have been most injuriously misrepresented.

Finally I venture to claim Earl Bathurst's favourable consideration on account of much important information (entirely unconnected with my own case) which I have on various occasions furnished to His Majesty's Commissioners of Inquiry, and for which I have repeatedly received their official thanks in writing. The particulars of the information so furnished by me I am ready to specify if desired.

For Earl Bathurst's intentions of affording me further encouragement as a Settler I feel sincerely grateful, but as I have only received the intimation of his Lordship's favourable designs in that respect since my arrival in England, I do not know how they can now avail me. My misfortunes in the Colony and the conveyance of my family to England have involved me in debts which in my circumstances are sufficiently embarrassing, and which alone present an insuperable obstacle to my return to the Colony were my prospects in other respects ever so favourable.

I therefore earnestly request that His Lordship will take the hardship of my case into his candid consideration, and if it be possible afford me some *relief* (I do not speak of *compensation* or redress) in this Country. I have &c.

(Signed) THOS. PRINGLE.

[Original.]

*Letter from MR. THOMAS PRINGLE to R. W. HAY, ESQRE.*

8 ARUNDEL STREET, STRAND, LONDON, *October 23rd 1826.*

SIR,—I beg to express my acknowledgments for the information you have furnished me in regard to the favourable intentions of Earl Bathurst relative to the Memorial from the inhabitants of Baviaans' River, praying for the aid of Government to enable them to obtain and assist them to support a presbyterian minister and schoolmaster in that Fieldcornetcy.

With the view of making some inquiries among my friends in the Church of Scotland, in order to discover an eligible person for the important office in question, I respectfully solicit information in regard to the amount of Salary which Government will be pleased to allow, and what other facilities and assistance may be expected by the Candidate who should be selected and duly approved of. I have &c.

(Signed) THOS. PRINGLE.

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[Copy.]

Ordinance No. 26. (Signed) RICHD. BOURKE.

Ordinance of His Honor the Lieutenant-Governor in Council,  
For levying a Stamp Duty on Printed Newspapers, and  
certain other Periodical Works.

Whereas it is expedient to levy a Stamp Duty on Newspapers, and certain other Periodical Works, printed and published in this Colony, which are not included in the Tariff annexed to the Proclamations of the 30th April, and 10th December, 1824: Be it therefore enacted, That from and after the commencement of this Ordinance there shall be collected and paid in this Colony, for and in respect of the several Articles, Matters, and Things mentioned and described in the Schedule to this Ordinance annexed, (except those standing under the Head of Exemptions,) the several Sums



of Money and Duties as therein respectively inserted and described ; and that there shall be allowed and paid, for and in respect of all such Articles, Matters, or Things as are inserted and described in the said Schedule in that behalf, the several Allowances therein set forth ; and that the said Schedule, and every clause therein respectively contained, shall be deemed and taken as part of this Ordinance.

II. And be it further enacted, That from and after the commencement of this Ordinance, any Person who shall be convicted of Printing or Publishing, within this Colony, on Paper not duly stamped, any Newspaper or other Periodical Work required by this Ordinance to be stamped, shall be subject to a Penalty of *Twenty Pounds* for every such Offence—one half whereof shall be paid to the Informer, and one half to the Colonial Treasury.

III. And be it further enacted, That this Ordinance shall take effect, and be in force, from and after the 1st day of January, 1827.

God save the King !

Given at the Cape of Good Hope, this 23rd Day of October, 1826.

By Command of His Honor the Lieutenant-Governor,

(Signed) R. PLASKET, Secretary to Government.

By Order of the Council,

(Signed) D. M. PERCEVAL, Clerk of the Council.

### Schedule of Duties on Newspapers and other Periodical Works printed and published in this Colony.

Any Newspaper, or Paper containing Public News, Intelligence, or Occurrences, and not exceeding One Sheet . . . . .		<i>One Penny.</i>
For every additional Half-Sheet thereof . . . . .		<i>One Half-Penny.</i>
Any Almanack or Calendar for any Year, or time less than a Year . . . . .		<i>Sixpence.</i>
Any Almanack or Calendar made to serve for any longer time than a Year, or for several Years . . . . .		<i>Three Shillings.</i>
Any Colonial Directory . . . . .		<i>Sixpence.</i>

*Schedule of Allowances for the Purchase of the Stamps enumerated in the foregoing Table.*

To any Person who shall bring Paper to the Stamp Office in Cape Town to be stamped, or who shall buy Stamped Paper at the said Stamp-Office, the Duties whereof shall amount to *Ten Pounds* or upwards, an allowance after the rate of *Ten Pounds* for every *Hundred Pounds*, upon prompt payment of the said Duty upon such Paper so bought or stamped.

*Exemptions from the Duties on Papers containing Public News, Intelligence, and Occurrences.*

Acts of Parliament, Proclamations, Orders in Council, Ordinances, Government Minutes, and Acts of State, or other matters printed by order of His Majesty, or of the Colonial Government.

Any paper containing a single Advertisement, printed and dispersed separately ; save and except Handbills, as specified in the Proclamation of the 10th December, 1824, Article 6th.

Daily Accounts, or Bills of Goods imported and exported, and Prices Current.

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[Office Copy.]

*Letter from* EARL BATHURST *to* MAJOR-GENERAL BOURKE.

DOWNING STREET, LONDON, 24 October 1826.

SIR,—I have had the honor to receive your dispatch of the 22nd of June last in which you call my attention to the present state of the Government Slave Lodge, the early regulation of which you state to have been recommended to your notice by His Majesty's Commissioners of Enquiry.

As it appears from your dispatch that the labour of the Government Slaves, nearly the whole of whom are employed in the service of the Colonial Government, is not only disproportioned to their number, but that their general conduct is discreditable and could not be reformed without placing them

under an additional and expensive controul, I am disposed to concur with you in opinion that it will be desirable to manumit as many of them as may be capable of maintaining themselves. But you will only grant them their freedom gradually, as you propose.

The Slave Children may be apprenticed when they attain a proper age.

And you will make the best arrangements which you may have it in your power to devise for the maintenance of the sickly and worn out Slaves.

I must, however, apprize you that in authorizing you to dispose of the Government Slaves in the manner which you have suggested, I am not now prepared to admit that the Governor in whose houses and gardens they appear to have latterly been mostly employed, is entitled to compensation for the loss of their Services. I am &c.

(Signed) BATHURST.

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[Original.]

*Letter from MAJOR-GENERAL BOURKE to EARL BATHURST.*

GOVERNMENT HOUSE, CAPE TOWN, *October 24th 1826.*

MY LORD,—His Majesty's Commissioners of Inquiry having communicated to me on the 10th of June last an abstract of certain financial arrangements which they were at that time disposed to recommend for adoption in this Colony, I thought it my duty after giving their propositions the fullest consideration, to state to them what occurred to me on so important a subject, and I addressed to them on the 17th July the letter of which the enclosed is a copy. I stated to your Lordship in my despatch of the 22nd June 1826 that this correspondence had taken place, but that not wishing to anticipate any part of the Commissioners' Report, I would not forward a copy of my letter until I should learn that they were about to make a communication to your Lordship on the same subject. Mr. Bigge has now informed me that he proposes to forward by this Mail his observations on the taxation of the Colony.

I should state to your Lordship that the remarks contained

in my letter of the 17th July were in answer to a specific project of the Commissioners, and that the principal object I had then in view was to effect a diminution of the proposed tax on Slaves which I thought much beyond what the Colony could bear. To this opinion I still adhere ; and tho' I have had no intimation of what the Commissioners have finally determined to recommend for your Lordship's sanction, I collect from a conversation lately held with Mr. Bigge that they have reduced the proposed tax from One Pound to ten shillings for each slave. I confess that a further insight into the state of the Colony induces me anxiously to desire that this Tax should be still further reduced, and that no larger sum than five shillings should be levied for any slave employed in agriculture. The condition of that District in which slaves are principally employed in field labour, namely the Wine District of Stellenbosch and Drakenstein, is embarrassed in the extreme. The Commando tax is more than two years in arrear, the Quit Rent is still more so, and much of the District taxes of this year are unpaid. I had hoped at this season when the Wine of the last Vintage is usually brought to market that some payment of the taxes in arrear might have been got in. I am sorry to say such is not likely to be the case. The price which the Merchants have offered (being not more than £2 5s. for a Leaguer containing 152 Gallons of Wine) will hardly pay the cost of carriage to market. Yet at this ruinous rate the Growers will probably be compelled to sell, as for the most part they have neither Casks nor Store Room nor Capital to enable them to hold over for a better Market. A tax on the labour of this District where the produce of that labour cannot be disposed of to advantage, must, it is obvious, be most severely felt as bearing directly on Capital.

I beg to repeat that I am ignorant of what the actual propositions of the Commissioners now forwarded for your Lordship's consideration may be, but as the result of the closest attention to the financial affairs of this Government during the time I have had the charge of it, I would endeavour to convey generally to your Lordship my notion of the utter inexpediency of increased taxation in this Colony, and the absolute impossibility of raising the Revenue to the amount of the actual expenditure without serious injury to the People.



In their communications with Lord Charles Somerset or myself the Commissioners of Inquiry have not stated the changes they propose in the Sequestrator's office, but on the 25th ultimo I received a letter from Mr. Bigge, of which I annex a copy, representing the large amount of costs incurred in that office for the recovery of the small amount of 4/6 due for town taxes. I forward also a copy of my answer proposing to make some provisional arrangements for the remedy of this serious evil. To this Mr. Bigge has not made any written reply and in conversing with him on the subject I did not collect that he was desirous of recommending any temporary remedy. I have however directed the Burgher Senate to offer a remission of the Sequestrator's costs on the payment within a given time of the numerous small demands for Town taxes now lodged in his office, and I shall endeavour by all means to lighten some part of the load which presses so heavily on the unfortunate persons who are subjected to this operose and expensive method of levying a distress. I should add that for the four years ending with 1824 the net yearly Revenue derived from the Sequestrator's office averaged about £1,500. In 1825 it did not exceed half that sum. The Establishment now costs about £1,000 per annum, and considering the distressed state of the Persons who are brought under the charge of this office, I conceive nothing more should be collected in it than what is absolutely required to pay its necessary expenses. I have &c.

(Signed) RICHD. BOURKE.

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[Original.]

*Letter from MAJOR-GENERAL BOURKE to EARL BATHURST.*

GOVERNMENT HOUSE, CAPE TOWN, *October 24th 1826.*

MY LORD,—At the particular request of Mr. Henry Murphy, English Assistant to the Secretary of the Court of Justice and a very old and deserving public Servant, I have the honor to forward the accompanying letter and documents in which are established Mr. Murphy's length of service, the favorable opinion entertained of him by Lord Caledon and other Gover-

nors of this Colony, the confidential situations in which he has served, and the various and sudden changes which have been made in the value of his appointments, by which Mr. Murphy has been in great part precluded from deriving any profit from his employments such as might have enabled him to look forward to old age (which is now fast approaching him) without apprehension. Mr. Murphy's salary is now £225 per annum, but he has lately been deprived of a second employment from which he derived £112 10s. per annum, and which he imagined had been given to him in order to make up his income to the amount which his services and qualifications appear to authorize him to expect.

I have made every inquiry into Mr. Murphy's character, which I find to be highly respectable, and the length of his services is unquestionable. Mr. Murphy may still be of much use as an Interpreter as well as Translator upon the formation of the new Courts of Justice, and I would therefore recommend to your Lordship that his Salary be augmented to £300 per annum.

I have &c.

(Signed) RICHD. BOURKE.

[There are twelve enclosures in this despatch, some of them of considerable length, but as the substance is contained in the above, I do not think it necessary to copy them.—G. M. T.]

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[Original.]

*Letter from MAJOR-GENERAL BOURKE to EARL BATHURST.*

GOVERNMENT HOUSE, CAPE TOWN, 24th October 1826.

MY LORD,—I have the honor to enclose copies of two Ordinances which have been lately promulgated. The first (No. 25) is for the better regulation of the Post Office, and was brought before Council in obedience to your Lordship's commands as expressed in the despatches of the 3rd January 1826, No. 227, of the 7th of the same month, No. 231, and of the 11th April last, No. 259. It is hoped that the limitation of the privilege of franking, which was here almost universal, an increased

rate of postage, a reduction in the salaries of almost all the Deputy Postmasters, a change in the line of road, and the conveyance of the mails by contract, may bring the expenditure of this Department more upon a par with its receipts ; but the great distance to which the mails have to be carried and the little commercial intercourse with the towns of the interior must continue to operate against the productiveness of the Post Office revenue, and in truth if this Government was not obliged to keep up a regular communication with the country districts the post might be abandoned altogether without much inconvenience being felt by the Public.

It is proposed that the letters of the several public Departments shall pass through the offices of the Civil and Military Secretaries respectively, and in this manner be relieved from postage. The conveyance of the military correspondence is undoubtedly very expensive to the Colony, that of the Ordnance Department alone being rated at £500 per annum. I could not however venture to charge the public correspondence of a Department that expends annually such very considerable sums in the Colony.

The second Ordinance, No. 26, is for levying a Stamp Duty on Newspapers as directed by your Lordship's despatch of the 11th April 1826, No. 259. The rate is one penny, with an allowance of 10 per cent for prompt payment on sums above £10. Perhaps a higher stamp duty might have been fairly imposed, if your Lordship had not at the same time directed postage to be charged for newspapers, which Council has fixed at one penny also. Duties have been laid upon a few other printed papers and works from which however the receipt will be but trifling. I have &c.

(Signed) RICHD. BOURKE.

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[Original.]

*Letter from MAJOR-GENERAL BOURKE to EARL BATHURST.*

GOVERNMENT HOUSE, CAPE TOWN, 24th October 1826.

MY LORD,—With reference to your Lordship's despatch (circular) under date 30th April 1823, I have the honor to

transmit to your Lordship Returns of the Revenue and Expenditure, Population, Exports and Imports, and the Civil Establishment of this Colony for the year 1825. I have &c.

(Signed) RICHD. BOURKE.

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[Original.]

*Letter from MAJOR-GENERAL BOURKE to EARL BATHURST.*

GOVERNMENT HOUSE, CAPE TOWN, *October 24th 1826.*

MY LORD,—I take the liberty of informing your Lordship that I have been applied to by a very respectable Gentleman and a decided friend of His Majesty's Government to employ him in the service of the Colony when any suitable opportunity may offer, Captain C. Bird, a son of the late Colonial Secretary. This young Gentleman is personally known to me, is apparently clever, and has been very well educated. He is now on half pay, and having several sisters who look up to him for protection and support, he is desirous of being employed in a civil rather than a military capacity, and professes to be willing to devote himself to the service of the Colony. As it is not easy to procure persons born in the Colony and well qualified by education to undertake employment in it at the low rate of salary usually annexed, I think it would be desirable to take an opportunity of bringing Captain Bird forward. But upon consideration of the circumstances under which Lieut.-Col. Bird was removed from office, I did not think myself authorized to bestow any small Colonial preferment that might fall vacant, upon Captain Bird, without previously ascertaining your Lordship's inclination on the subject. I should add that Captain Bird is a Catholic. I have &c.

(Signed) RICHD. BOURKE.

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[Original.]

*Letter from MAJOR-GENERAL BOURKE to EARL BATHURST.*GOVERNMENT HOUSE, CAPE TOWN, *October 24th 1826.*

MY LORD,—I beg leave to bring under your Lordship's notice the necessity of filling up two vacancies which will occur about the middle of the next year in the number of English Schoolmasters sent out to this Colony under an engagement for five years. Mr. Innes, who has been stationed at Uitenhage, and Mr. Roberston at Graaff Reynet have both expressed their intention of returning to Europe on the expiration of their engagements next summer. I understand that the services of these Gentlemen have been of the greatest benefit to their respective Districts ; and as it is not possible to retain them beyond the stipulated period, the Inhabitants of the Districts are extremely anxious that other Teachers should be at hand to supply these vacancies when they occur, so that no time may be lost in following up the system of education which has been so happily begun.

The enclosed paper will show the terms upon which these Teachers have hitherto been engaged. I have &c.

(Signed) RICHD. BOURKE.

[Enclosure in the above.]

See Vol. XIV, page 97.

[Original.]

*Letter from MAJOR-GENERAL BOURKE to EARL BATHURST.*GOVERNMENT HOUSE, CAPE TOWN, *October 24th 1826.*

MY LORD,—In reply to your Lordship's Circular Despatch of the 1st March last I have the honor to forward

1. A Return of the number and character of all Military Buildings in this Colony given up into the care of the Ordnance Officers.

2. A Statement of the amount of Colonial Revenue hitherto applied for the construction and reparation of Military Defences and Buildings for the period of the last ten years.

3. The amount of salaries and allowances paid to all persons employed by the Colonial Government and hitherto paid out of the Colonial Funds transferred to the Ordnance Department.

I should state to your Lordship that the construction and repair of military works and buildings in this Colony has chiefly been defrayed out of the extraordinaries of the Army, and hence the small sum returned as paid by the Colonial Government, or for which it stands pledged to the Military Chest, for the last ten years. There being no Militia in this Colony, and the Military Buildings being chiefly appropriated to His Majesty's Artillery, Engineers or Regiments of the Line, and to the Civil Departments of his Army, it was thought right that the construction and repairs of the buildings occupied by them should be paid for out of the Military chest.

I have further to state to your Lordship that these works and Buildings have been transferred to the Ordnance by General Orders, in compliance with the directions contained in the Treasury Minute of the 24th June 1822. This mode of transfer has not been satisfactory to the Board of respective officers of Ordnance in this Colony, who require from the Colonial Government a Grant or Deed of Transfer of the Buildings, Site, and land adjacent, such as may enable the Board to sell or otherwise dispose of this property hereafter if it should think proper. The copy of the letter from the respective Officers to this effect is herewith enclosed.

His Excellency Lord Charles Somerset having taken the opinion of the Council upon this claim at the time when it was first advanced by the Ordnance, the Council resolved

1st. That all public buildings belong to the Crown.

2ndly. That the Military Departments can have no right to any Buildings except those which were occupied by the Military of the Batavian Government at the time of the capitulation, and that even this right is coupled with the pledge of the paper money.

3rdly. That with regard to such Buildings belonging to the Civil Government and Municipal Authorities at the time of the capitulation that may have since been transferred to the

Military Departments, the Military can have no right thereto beyond that of temporary possession.

In this way the matter has stood for more than a year and has been productive of much practical inconvenience, as the Ordnance Storekeeper holds himself precluded by his orders from the Master General and Board, from bringing into account the cost of repairs of any work or building not granted to the Board in the manner required by them.

It is for your Lordship to decide whether the transfer such as is claimed by the Ordnance shall be granted. I confess that I see no objection to the measure if the Ordnance fulfil the 5th Article of the letter B January 1826, and "repair and maintain the Buildings whether occasionally occupied by Militia or not." But I submit that if the property in all these Buildings and Land adjacent is conveyed in fee to the Ordnance, no annual charge of any sort should be made against the Colony in respect to the maintenance and reparation of them. I have &c.

(Signed)      RICHD. BOURKE.

[Enclosure 1 in the above.]

CAPE OF GOOD HOPE, 20th October 1826.

Account of sums expended out of the Colonial Revenues for the construction and reparation of Military Defences and Buildings for the last ten years.

	<i>Rds.   sks.   sts.</i>		
Paid direct out of the Colonial Treasury between September 1815 and November 1821 for building and repairs done to the several Signal Posts between Cape Town and Simon's Town . . . . .	2,891	3	3
Paid in the first instance by the Commissariat and refunded to that Department by the Colonial Government between December 1815 and September 1816 for sundry repairs done to the Barracks and Military Buildings at and in the neighbourhood of Algoa Bay . . . . .	827	6	1
Between do. and do. for building and repairing Barracks for the Cape Corps at Graham's Town . . . . .	5,775	0	1
<hr/>			
£712   1s.   4½d. or	9,494	1	5

Further sums expended by the Commissariat and charged to but not yet refunded by the Colonial Government.

	<i>Rds.</i>	<i>shs.</i>	<i>sts.</i>
Between April 1823 and December 1825 for building and repairs done to the Cape Corps Barracks at Graham's Town and neighbourhood . . . . .	16,788	3	0
To Contractor for erecting a Mess House for the Cape Corps at Graham's Town . . . . .	24,500	0	0
For the purchase of Houses and Premises for Quarters for Officers at do. . . . .	22,200	0	0
	<hr/>		
	£4,761	12s. 6 $\frac{3}{4}$ d.	or 63,488 3 0

(Signed) WM. HAYWARD, Acting Auditor.

[Enclosure 2 in the above.]

Statement of Colonial Revenue applied for the construction and reparation of Military Defences &c. for the last ten years.

Nil.

[Enclosure 3 in the above.]

OFFICE OF ORDNANCE,  
CAPE OF GOOD HOPE, 31st August 1826.

SIR,—With reference to our letter dated 29th Instant, and to a communication made by the Storekeeper of the results of an interview between you and himself, we beg leave to state for the information of the Major General commanding the Forces that the Master General and Board of Ordnance in concurrence with the Secretary of State for the Colonies require by the instructions to us that a regular Transfer be made to the Ordnance by the Colonial Government of all such Buildings and Military Defences including the ground around them belonging to the Public which hereafter are to be maintained at the Ordnance expense.

We conceive that the most advisable mode of making such Transfer will be a document from the Secretary to Government relinquishing on the part of the Colony all right and claim to the Premises laid down in an accompanying plan to be signed respectively by an Engineer Officer and Civil Officer of the



Ordinance if necessary on the one part and some person or persons on the spot deputed by the Colonial Government on the other, in which plan should be clearly defined the Boundaries of the Land so transferred.

It is in this way that in England Land and Buildings have been transferred to and from the Ordnance. We have &c.

(Signed) WM. LAWSON, O. S.,  
TIMY. CAFFYN, Deputy Storekeeper,  
W. E. HOLLOWAY, Major Engineers.

Major Ryan, Military Secretary.

[Enclosure 4 in the above.]

Extract from the Minutes of the Council held the 6th day of  
June 1825.

See Vol. XXIV, page 263.

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[Original.]

*Letter from the COMMISSIONERS OF ENQUIRY to EARL BATHURST.*

MAURITIUS, 24th October 1826.

MY LORD,—We have had the honor to receive by the Ship *Cleveland* a despatch from your Lordship under date the 30th June, in which you have conveyed to us your doubt of the propriety of the measure resorted to by us of putting interrogatories to the Members of the Council of Government at the Cape, on points touching their proceedings in Council, and we beg leave to assure your Lordship that we shall implicitly conform to the views of your Lordship on this subject in the future prosecution of our inquiries. We have &c.

(Signed) WILLIAM M. G. COLEBROOKE,  
W. BLAIR.

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[Original.]

*Letter from* MAJOR W. M. G. COLEBROOKE *to* R. WILMOT  
HORTON, ESQRE.

PORT LOUIS, MAURITIUS, *October 24th 1826.*

MY DEAR SIR,—I fully intended to have written to you previous to our departure from the Cape, but I was occupied to the last moment with the preparation of our reports.

Mr. Bigge was enabled to accompany us to Simon's Town, and it was a great satisfaction to us to find that we could complete the three first sections of our General Report, on which the principal arrangements for the Colony would depend.

I was chiefly anxious to have written to you, in order to remove any possible impression that our late correspondence might have produced on the mind of Lord Bathurst, that we had suffered our judgment or our feelings to be biassed in anything that regarded the administration of Lord Charles Somerset. It would be unjust to ourselves to allow such an impression to remain, and prejudicial to the public interests by impairing the confidence with which we hope that our reports are entitled to be received. From our first arrival in the Colony, we had studiously preserved ourselves from all undue influences, and altho' our situation during the last three years had been a difficult one, and far more so than we could at all have anticipated, I am unconscious of any feeling at the latest moment that could have prejudiced my judgement in relation to Lord Charles, and of any consideration that could have deterred me from doing strict justice to him in all that concerned his administration at the Cape. Indeed as to any personal feeling in respect to Lord Charles or to Sir Richard Plasket I beg most distinctly to disclaim it. Sympathizing as I did in the painful and protracted sufferings of my friend Mr. Bigge, if I had any feeling, it was of regret that he should have been exposed to any unnecessary annoyance, but I have always relied with the utmost confidence upon the disposition of Lord Bathurst to do justice to us when he should be thoroughly acquainted with our proceedings, and of the unceasing anxiety that we have felt to promote the public interests.

We hope that the personal enquiries that devolve on us in this

Colony will not occasion any material delay in our proceedings. In such enquiries however you must be convinced that we cannot be responsible for delays, if they should occur, as it would be extremely unjust to individuals that we should satisfy ourselves with incomplete evidence.

In our general inquiries we may exercise a discretion in determining whether the public interests would be promoted by reporting upon the evidence we may at any time have acquired, or by seeking fuller information. I beg &c.

(Signed) W. M. G. COLEBROOKE.

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[Original.]

*Letter from J. T. BIGGE, ESQRE., to R. W. HAY, ESQRE.*

CAPE OF GOOD HOPE, 24th October 1826.

SIR,—I have the honor to inform you that I have availed myself of the return of His Majesty's Ship *Alligator* to England to enclose and transmit to Earl Bathurst the reports of my colleagues and myself upon the administration of the Colony, the first part of our Report upon the judicial administration and the form of judicature that we propose to introduce, and our report on the finances of the Colony.

In framing these reports we have endeavoured to keep in view the instructions with which we were furnished, and we have generally taken the results of our examination of particular cases as the grounds for future alteration and improvement. In proposing that a wider scope should be given to the Deliberative Powers of the Council, we have thought ourselves justified by a reference to the nature and number of the subjects that have been submitted to their discussion, by the general feeling of reluctance which is entertained by the subordinate members of a Government to intrude the mention of disagreeable subjects upon the attention of the person who conducts it, and by the feeling of indifference that is insensibly contracted by the Members of a Board to the success of measures which originate from one and the same source. In the future composition of the Council, we have recommended

that the person holding the highest judicial authority should not be included, not only on account of the ordinary objection that arises to the union of the judicial and legislative functions, but of the effect which the inhabitants of this Colony are so apt to attribute to the influence of association over the judgment. It was partly for this reason, which I held in common with my colleagues, as well as for another in which I differed from them, that I proposed that the Chief Secretary to Government should not in future be a member of the Council. It appeared to me that with reference to events of no very late occurrence in the Colony the accession of the influence of the Chief Secretary to that of the Governor, in the Council, might stifle all useful discussion amongst the other members, and that if his influence should be exerted in opposition to the Governor, it might materially impede the success of his measures whether legislative or executive. I think that I could safely appeal to the experience of His Excellency Lord Charles Somerset in confirmation of this last remark, which, if true to the extent that I think his Lordship would be disposed to admit, would go far to outweigh the advantages that may be obviously derived by the Council from the presence, knowledge, and information of the 2nd officer of the executive Government.

Without adverting to other reasons which would have induced me to make them the subject of a separate communication, and to refuse my assent to that part of our report in which altho' future Chief Secretaries are not generally excluded from a seat in the Council, they are not specially included, I was induced to waive my intention, on account of the change which I conclude will naturally take place under the new arrangements in the situation and official influence of the Chief Secretary, from the contracted limits of his correspondence, the nearer intercourse that will take place between the Governor and the inhabitants, and the diminished necessity that will exist for making the Chief Secretary the constant medium of communication, and what I have considered to be more objectionable, the channel of preliminary applications for colonial patronage. My colleagues are perfectly apprised of my intention to address these observations to you, Sir, and although I believe that they admit the greatest part of the reasoning they differ in the conclusion that I have drawn.



The second section of our report relates to the judicial administration that we propose, and to the state of the Colonial Laws, but I regret to add that it does not include a description of the mode by which the civil process is now executed, the costs of the proceedings in civil actions, the system of the Bankrupt and Insolvent Laws, the Laws of Property, and the nature of the establishment called the Orphan Chamber. Our report upon these subjects as well as upon the Criminal Law and Police is in a state of forwardness and will be transmitted at the earliest opportunity.

The Report on the Finances embraces nearly all the points that we shall have to submit to Earl Bathurst upon that subject, and we have taken the opportunity in concurrence with Major General Bourke to transmit to his Lordship the correspondence that has passed between the Governor Lord Charles Somerset, the Lieutenant Governor Major General Bourke, and ourselves upon the alterations that we have proposed to make in the present system of taxation, including those points in which the Lieutenant Governor agreed with us and those in which he differed. You will not fail to perceive that we concur with his Honor in the entire inexpediency, if it were not the impracticability, under the present circumstances of the Colony of devising new sources of taxation, or of reducing the expenditure, and I may venture to state that nothing but a series of temporary expedients has prevented a resort, which I fear will soon become inevitable, to the resources of the British Treasury. Although you will observe that our correspondence with the Governor and Lieutenant Governor is marked Private and Confidential, yet it was perfectly understood between us that the pledge was not to extend to any communication that either of us might be desirous of making to Earl Bathurst. I will not conclude this letter without assuring you of my earnest wish to complete the Reports upon other parts of our Inquiry, and that I shall continue to devote to that object all the time and attention that my health and strength will allow. I have &c.

(Signed)      JOHN THOMAS BIGGE.

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[Original.]

*Letter from D. M. PERCEVAL, ESQRE., to R. W. HAY, ESQRE.*

COUNCIL OFFICE, CAPE TOWN, *October 24th 1826.*

SIR,—I have the honor to forward herewith the second volume of the Minutes of His Majesty's Council for this Colony, comprising its proceedings from the 6th of March last to the 12th of October inst., together with an Appendix, and the Ordinances passed during that period, in separate volumes. Copies of these last are also inserted at the end of this volume of the Minutes, instead of the appendix, for easier reference. An index is subjoined to the Minutes and to the Ordinances.

The transmission of these papers has been delayed a little beyond the half year, for the purpose of including the whole of the proceedings of Council with regard to the Post Office.

I have &c.

(Signed) D. M. PERCEVAL, Clerk of the Council.

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[Original.]

*Letter from MR. J. W. MAY to EARL BATHURST.*

NETHERLAND CONSULATE,  
6 *Jeffries Square*, 24 *October 1826.*

MY LORD,—Having been informed by some of the merchants engaged in the trade with the Cape of Good Hope, that indigent natives of that Colony are sometimes provided with a passage thither thro' the intervention of the Colonial Department, I have the honor to represent to your Lordship the case of a young Negro born at the Cape in 1800 and who, having left that Colony in the service of a foreign gentleman of the name of Hinser, with whom he lived some years in Holland and Germany, and who having lately died suddenly at Berlin, is now returned to this country thro' the assistance of the British Consul at Hamburg and finds himself without means of subsistence and incapable of proceeding to his native country. Since his arrival here he has been supplied by me and a few of

the gentlemen connected with the Cape, but all our endeavours to obtain a passage for him to that Colony have been unsuccessful. I have &c.

(Signed) J. W. MAY.

(Office Copy.)

*Letter from* EARL BATHURST *to* MAJOR-GENERAL BOURKE.

DOWNING STREET, LONDON, 25 October 1826.

SIR,—I have to acknowledge the receipt of your dispatch No. 32 of the 10th of June last, enclosing a Memorial from Mr. Van Reenen, in which he prays for the confirmation of a grant of land which he alleges had been allotted to him by the Batavian Government, but of which the title deeds have never been executed.

Having referred this subject for the consideration of Lord Charles Somerset, I have received a communication from His Excellency, of which I enclose a copy, in which you will find reasons of a local nature which forbid a compliance with Mr. Van Reenen's request.

Independently, however, of those objections, I am of opinion that it would be highly inexpedient to admit Mr. Van Reenen's claim; although in consideration of the favorable opinion which both the Governor and yourself have expressed of that Gentleman's character, I shall be ready to authorize you to attend to any application which he may address to you for such further quantity of land as he may be enabled to bring into cultivation. I am &c.

(Signed) BATHURST.

[Original.]

*Letter from* MAJOR-GENERAL BOURKE *to* EARL BATHURST.

GOVERNMENT HOUSE, CAPE TOWN, October 25th 1826.

MY LORD,—I have the honor to enclose herewith the Proceedings of a trial before the Worshipful the Court of Justice in the month of April 1823 when a female slave named

Sila was condemned to death for the murder of her own child. Subsequently to her condemnation she was found to be pregnant and on application from the Court to His Excellency the Governor was reprieved. It appears that she was delivered of a male child in the month of November following, which has since died.

It would appear further that the case has since been overlooked, for the woman is still in prison, and I cannot upon inquiry discover that any correspondence has taken place with His Majesty's Government or with the Court of Justice here respecting her.

As more than three years have elapsed since the Prisoner's condemnation (during which time she has had another child, which is now living) I beg to recommend her to your Lordship as an object for the Royal Mercy, beseeching His Majesty to commute her sentence to labour on the public works for twenty years from the date of her condemnation, and that her child (whom I take to be the property of the Crown) may be apprenticed at the proper age, and subsequently manumitted. I have &c.

(Signed) RICHD. BOURKE.

(The enclosures are missing.)

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*Letter from MAJOR-GENERAL BOURKE to EARL BATHURST.*

GOVERNMENT HOUSE, CAPE TOWN, *October 25th 1826.*

MY LORD,—Having been lately engaged in looking over the Commissariat Estimates for the year 1827 I perceived by the memorandum of which a copy is sent herewith that some of the articles composing the Ration of the Troops in this Colony can be procured here upon better terms than they are forwarded from England. I allude to Coffee and Rum or to Cape Brandy as a substitute for the latter. The Commissariat has not been advised of the prices at which these articles are shipped in London, but after being landed here there is an additional charge for freight on the quantities required for the Eastern



frontier amounting to as much as the freight from England. The annexed memorandum sets forth the price at which the articles can be delivered at Port Elizabeth in Algoa Bay, and which I take to be much lower than what is paid by the existing arrangement.

It would be some encouragement to the declining trade of this place to allow the Commissariat to purchase Mauritius Coffee, and some little boon to the Agriculturists of the Colony to permit the purchase of Cape Brandy in lieu of the West India Rum and Coffee now sent out from England for the use of the Troops. The Cape Brandy is much improved in quality and in its present state is probably as wholesome as ordinary Rum, but if Rum should be preferred that of the Mauritius can be procured of the Merchants here and delivered at Port Elizabeth at a cheaper rate than the West India Rum.

I trust I may be permitted to solicit your Lordship's influence with the Lords Commissioners of His Majesty's Treasury to obtain this favor for the Colony. The principle upon which this application is founded was asserted by the Treasury Board upon a former occasion, as your Lordship may perceive by the enclosed extract from a Treasury Minute of the 8th November 1810. I have &c.

(Signed) RICHD. BOURKE.

[Enclosure 1 in the above.]

Average market price of Coffee deliverable in Cape Town, £3 7s. 6d. to £3 15s. per 100 lbs., duty paid.

Do. of Mauritius Rum or best Cape Brandy, deliverable at Port Elizabeth on the Frontier, 3s. per gallon, duty paid.

[Enclosure 2 in the above.]

See letter from Lord Liverpool to Sir John Cradock, dated 23rd July 1811, Vol. VIII, page 116.

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[Original.]

*Letter from MAJOR-GENERAL BOURKE to EARL BATHURST.*GOVERNMENT HOUSE, CAPE TOWN, *October 25th 1826.*

MY LORD,—Since I had the honor of addressing your Lordship on the 14th ultimo nothing of any considerable importance has occurred in relation to the Ordinance for improving the condition of the Slaves. The Statute has been brought into operation throughout the Colony, with some manifestations indeed of ill will, but without any determined opposition. The Commissioners of Circuit now on progress have had instructions to explain to the local Magistrates the duty required of them. At Stellenbosch the Heemraden seemed disposed to refuse to administer the Law, or to permit the Guardian of Slaves to appear in Court. I found it necessary to intimate to them that if they declined to perform their duty it would be mine to provide for the administration of the District by appointing Special Magistrates with salaries to be paid by the District itself. This intimation induced them to reconsider the subject, and they have since proceeded in the regular discharge of their functions, and have acted on the provisions of the Slave Ordinance.

Having given permission for a meeting of the slave-owners in Graaff Reinet to consider upon the expediency of making some propositions to Government tending to the extinction of Slavery in the Colony, a Committee has been appointed there, of which the Landdrost is Chairman, and who are instructed to propose the emancipation of all the Female Slaves in their District upon the most equitable conditions. There has not yet been time to receive a Report of their proceedings, but I understand this Commission does not desire the suspension of the Slave Ordinance as a preliminary, but is satisfied in the first instance to provide for the final extinction of Slavery trusting that then there will be no wish on the part of the British Government to interfere with the management of the existing Slaves, or to prevent their owners from cultivating the land in any part of the Colony by means of their labor. From the simple and respectable character of the Persons composing this Meeting, and from the ability and discretion

of the Chairman, it is possible that the foundation for the final extinction of Slavery in this Colony may be laid in Graaff Reinet. At all events the irritation, inseparable from the introduction of such a Statute as the Ordinance No. 19 in a Slave Colony has nearly subsided. The law has been brought into operation wherever it has been required, and it is no longer questioned. All idea of its suspension seems abandoned; and if the projects of the Graaff Reinet Committee should unhappily prove abortive, the regulation of Slavery may be considered as fully accomplished here by the provisions of the Ordinance now in force. I have &c.

(Signed) RICHD. BOURKE.

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[Original.]

*Letter from MAJOR-GENERAL BOURKE to EARL BATHURST.*

GOVERNMENT HOUSE, CAPE TOWN, *October 25th 1826.*

MY LORD,—In my despatch on the subject of the Post Office I informed your Lordship that the Salaries of almost all the Deputy Postmasters in the Colony had been reduced, by which a saving will be effected from the 1st of January next to the amount of £191 7s. 6d. per annum. Amongst the Persons whose salaries are thus reduced are three Ladies, to whom these appointments were given in the first instance, I believe, more as a kind of pension than as an exact remuneration for the services to be performed. In making a general reduction of the salaries it was not possible to pass over these cases, but as I have reason to believe that any loss of Income will be severely felt by the three Persons to whom I have alluded, I would request of your Lordship to allow the difference between the proposed reduction and the present rate to be continued to these Ladies for their lives in the form of Pensions on the Post Office Establishment. The whole amount of these three pensions will be £54 10s. as the annexed memorandum will explain.

Your Lordship having in your despatch of the 3rd January 1826 adverted to the appointments of Postmasters at Pletten-

berg's Bay and in the Worcester and George Districts whose salaries are brought forward in the accounts of this Colony for the year 1824, I have the honor to inform you that these have been miscalled Salaries to Postmasters, being nothing more than fixed contingent charges for conveying the Mails, which it was absolutely necessary to incur, or the Horses for carrying the Mails would not have been provided. I therefore trust your Lordship will direct the Colonial Auditors to admit these charges. I hope by the beginning of next year to have made contracts for the conveyance of the Mails throughout the Colony.

I have to inform your Lordship that by the death of Mrs. Ryneveld, Widow of the late Chief Justice, a pension of £500 per annum has fallen in to this Government.

I regret to have to inform your Lordship of the loss of the schooner *Frances*, which probably foundered at sea, and all hands have perished. The last account of the vessel was that of her sailing from Mossel Bay on the 11th June last. The master with four of his children were on board. His widow with one surviving child is anxious to proceed to England. I purpose to provide her a passage at the expense of this Government. I have according to the intention formerly expressed to your Lordship sold the *Buckbay Packet* for £600. The Colony will therefore be henceforward relieved from the expense of Government vessels.

A vacancy lately caused by the death of Mr. Korsten, a clerk in the Custom House at Simons Town, has not been filled up. I have given the duties to another clerk in the office and raised his salary £16 per annum, by which arrangement a small saving of £38 per annum has been effected.

Having had reason to be dissatisfied with the appearance of one of the free schools in this Town I made inquiries of the School Commission as to the character of the Master, and at the recommendation of that Board have removed him and appointed the Master of the slave lodge school in his place. The very few children who attended the slave school now go to the free school, and I have not replaced a master at the former, by which another small saving of £45 per annum is accomplished. I have &c.

(Signed) RICHD. BOURKE.



[Enclosure in the above.]

Memorandum of the Reductions in the Salaries of the under-mentioned Persons employed in the Post Office.

Names and Place.	Present Salary.			Proposed Salary.			Reduction.		
	£	s.	d.	£	s.	d.	£	s.	d.
Mrs. Caldwell, Stellenbosch	39	7	6	25	0	0	14	7	6
Mrs. Wrankmore, Paarl . .	38	12	6	18	0	0	20	12	6
Mrs. Alcock, Uitenhage . .	49	10	0	30	0	0	19	10	0
Total . .	127	10	0	73	0	0	54	10	0

[Original.]

*Letter from MAJOR-GENERAL BOURKE to EARL BATHURST.*

GOVERNMENT HOUSE, CAPE TOWN, *October 25th 1826.*

MY LORD,—Mr. Bigge having informed me that he has forwarded to your Lordship a Report upon the appropriation of the Government Gardens in this town, and that the letter now enclosed has not been added to the appendix, I take the liberty of laying it before your Lordship, as the fulfilment of the suggestion it contains for the restoration of these Gardens to the public would, I have reason to know, be peculiarly grateful to the People of Cape Town. I have &c.

(Signed) RICHD. BOURKE.

[Enclosure in the above.]

GOVERNMENT HOUSE, CAPE TOWN, *August 22nd 1826.*

GENTLEMEN,—Referring to the communication I have had the honor to hold with you on the subject of the Government Residences in this Colony and the means of keeping up the Gardens and Grounds on the Government Slaves being withdrawn, I beg leave to state what has lately suggested itself

to me as likely to remove some of the difficulty on the score of expense. Taking it for granted that Newlands (though formerly appropriated to the Commander of the Forces) is likely to continue to be the Country Residence of the Governor, I am of opinion that the quantity of land at that place is fully sufficient for affording every necessary supply usually obtained from farm or gardens for his Table, Household and Stables, and if more were to be cultivated the produce must be either wasted or sold, the latter of which would be a discreditable as well as an unprofitable speculation. I have mentioned Stables, as if the Governor should not be a Military Officer in Command of the Forces, He might not have the allowance of forage for Twelve Horses granted to the latter. This being the case with regard to the Country Residence, the whole of the Land attached to the Town House is superfluous as a means of supply ; and in fact these grounds have usually been considered more as the property of the Public than of the Governor. It would I am convinced be a most gratifying compliment to the People of Cape Town to restore these Gardens to their original destination, either by reëstablishing the botanical Gardens or by laying down and planting for shade and ornament the paddocks and enclosures now applied to raising Green Crops or as Garden Ground ; reserving for the private use of the Governor that part only which is immediately about the House, and which should be devoted to shrubbery and flower garden, and might be kept in a creditable style of neatness and elegance for £300 a year. A like sum of £300 per annum would suffice for keeping up the ornamental Gardens at Newlands and the exterior fences which are now in a deplorable state. I would propose to expend these Sums under the direction of the Superintendent of Government Works and Buildings, to be accounted for in the usual way, leaving the cultivation of the profitable part of the Gardens and Farm to the occupying Governor, who would benefit by the produce. All the Timber Trees should be under the charge of the Superintendent of Works. This arrangement would I imagine relieve the Governor from any loss consequent on the withdrawing of the Government Slaves as far as is connected with the Gardens and Pleasure Grounds, and would certainly secure the maintenance of those Places and especially the Town Residence

in a creditable style, such as becomes the principal Residence of the Governor of a Colony so considerable in extent, and so much visited by Strangers. With respect to the ground to be restored to the Public, a small sum, probably £200, would make the walks and lay it out in a convenient manner. If that part now in Kitchen Garden were again to become a botanical Garden, the satisfaction of the Town's People would be complete. It would in this respect be recalling what they term the good old Dutch times with reference to the particular pleasure they enjoyed in the use of these Gardens. A botanical Garden such as the former was would however now cost a large sum annually, probably not less than £1,000. But it would contribute much to the advancement of the science of botany, as no part of the world is better situated than this for the cultivation of Plants from every climate. If this Colony could venture to draw on the liberality of the Mother Country for £2,000 a year, the Library, Museum, and Botanical Garden might all be supported if not splendidly at least usefully.

With respect to the loss which the Governor will sustain in his Household Establishment by withdrawing the Government Slaves, it may be fairly calculated at £900 per annum. The services which the Slaves now render will not I am assured be obtained by free labour under that sum. I have &c.

(Signed) RICHD. BOURKE.

His Majesty's Commissioners of Inquiry.

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[Office Copy.]

*Letter from R. W. HAY, ESQRE., to LORD CHARLES SOMERSET.*

DOWNING STREET, 25th October 1826.

MY LORD,—Your Excellency's letter of the 26th of July last, relative to the concerns of the Groote Post Farm, having been communicated to the Lords Commissioners of His Majesty's Treasury, I have received from their Lordships' Secretary, in reply, the enclosed letter, together with a Report and a Statement thereunto annexed, from the Commissioners of Colonial

Audit, which Earl Bathurst has directed me to transmit to your Excellency for your information and guidance. I have &c.

(Signed) R. W. HAY.

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[Office Copy.]

*Letter from* EARL BATHURST *to* MAJOR-GENERAL BOURKE.

DOWNING STREET, LONDON, 26 October 1826.

SIR,—I have the honor to acknowledge the receipt of your dispatches of the numbers and dates noted in the margin [No. 43, 14 July ; No. 44, ditto.]

In the first of these dispatches you state with reference to your former communication of the 19th of May, that while it is asserted on the one hand by the Missionary Brownlee, that the Kaffre Chief Gaika did give his consent to the Acting Governor, Sir Rufane Donkin, for the occupation of the ceded Territory by British Settlers, it is on the other hand, as asserted by the Missionary Shaw, denied by the Chiefs Pato and Congo, that Gaika had the right to make any such concession. And you further state that the two latter chiefs have since the year 1819, when the Territory was ceded to the Colony, reoccupied part of it with the permission of Governor Lord Charles Somerset.

You will perceive from my dispatch of the 23rd of August, that I think it desirable that the Missionaries, who were neither of them present at the settlement of the Boundary in 1819, should be discouraged from entering into the discussion of these topics, and I would have you guide yourself by the arrangements which were concluded by the Governor with the Kaffre Chiefs, as reported in his dispatch of the 15th October 1819.

You are not, however, to consider my instruction of the 23rd of August as founded upon any doubt of the competency of the Colonial Government to occupy the ceded Territory. The reasons which have appeared to me to render it inexpedient that the Boors should be located in that Territory, are sufficiently apparent ; And it is equally inexpedient that any



other Class of Colonists should be permitted under present circumstances to form detached Settlements in the vicinity of Caffreland. And I desire that the occupation of part of the ceded Territory which has been permitted to Congo and Pato should, as I have already directed, be restricted to the temporary indulgence of grazing their Cattle.

As you state that you have in pursuance of my instruction of the 9th of January removed all those Boors from the Frontier districts who have already been permitted to settle there, through a misconception of my instruction on this subject, with permission to employ Slave labor, I have no hesitation in authorizing you to adopt measures for allowing the Settlers in Albany, who may not possess Slaves, to employ, under proper regulations, a certain number of Caffres as Labourers.

I have &c.

(Signed) BATHURST.

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[Office Copy.]

*Letter from* EARL BATHURST *to* MAJOR-GENERAL BOURKE.

DOWNING STREET, LONDON, 27 October 1826.

SIR,—I have the honor to acknowledge the receipt of your dispatch of the 5th of August last No. 54 on the subject of Mr. Schutte's claim to be reimbursed the amount of the extra expences which he alleges to have incurred in consequence of the change made in the situation for building the Custom House which he had originally contracted to erect at Port Elizabeth.

The Government having agreed to pay such charges as might arise out of the change of situation, the Contractor's claim is entitled to consideration.

It is true that he was warned that he would have to produce a Certificate from the Local Magistrate to shew that all extra expences were unavoidable, and that Certificate is not forthcoming. This omission justified you in refusing to admit Mr. Schutte's claim without further enquiry; but as it appears that the Landdrost of Albany has examined the buildings, and given in a specification of the causes which did actually occasion

more labour and expence than could have been contemplated ; and as it was under the Landdrost's advice that the question was submitted to arbitration, there is no alternative but to give effect to the award of the Arbitrators.

But I have most earnestly to desire that measures may be taken for having Contracts more accurately defined in future.

I am &c.

(Signed) BATHURST.

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[Office Copy.]

*Letter from R. W. HAY, ESQRE., to J. SULLIVAN, ESQRE.*

DOWNING STREET, 27 October 1826.

SIR,—Having laid before the Earl Bathurst your letter of the 5th instant, I have received his Lordship's directions to acquaint you in reply, for the information of the Secretary at War, that the appointment of the Reverend Mr. Ireland to the Civil Chaplaincy of Graham's Town appears to have been founded upon some misconception of the object of an application which that Gentleman had addressed to the Colonial Government, and which was construed into a wish on his part to resign his Military Chaplaincy ; and I am to add that it will give his Lordship pleasure to learn that the Secretary at War may have it in his power to restore Mr. Ireland to the exercise of his duties as Chaplain to the Forces. I am &c.

(Signed) R. W. HAY.

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[Office Copy.]

*Letter from EARL BATHURST to MAJOR-GENERAL BOURKE.*

DOWNING STREET, LONDON, 30 October 1826.

SIR,—I have the honor to acknowledge the receipt of your dispatch No. 42 of the 13th of July last enclosing a letter from the Inspector of Government Lands and Woods upon the

subject of the prohibition Clause against the employment of Slave Labour which by my instruction of the 20th May 1820 I directed should be introduced into all grants of land which might be made in the Frontier Districts.

I concur with you in opinion that it is expedient to adopt an accurate and fixed definition of the limits without which Slave labour shall not be permitted for the cultivation of new Grants of land.

I desire, therefore, that a prohibition Clause against the employment of that description of labour may be introduced into all grants of lands in the District of Albany ; and that such prohibition may extend throughout the whole of the Territory which is bounded by the District of Albany in the South, by the Great Fish River and by Baviaan's River in the East, by the ancient boundary of the Colony in the North, and in the West by a line, which, drawn at the distance of thirty miles from the ancient frontier, shall extend from the district of Albany to a point which shall intersect the Sea Cow River, thirty miles south of the place where that River flows across the Frontier.

I have further to instruct you that the line is to be considered and laid down as the fixed and permanent limit, beyond which no class of Colonists shall ever be permitted to acquire lands, unless upon condition that they shall not be cultivated by Slave labour. And I trust that this arrangement together with the operation of the Slave Registry will effectually guard against the introduction of Slaves into the Colony from Kaffreland.

With respect to those grants which have not been completed although the expence of surveying them has already been paid by the parties, if the lands surveyed are within the Territory which I have described, and the Grantees decline accepting them under the proposed restriction, measures must be taken for compensating the parties by granting them lands in some other quarter ; and if that cannot be done, the expence of survey must be returned to them. I am &c.

(Signed) BATHURST.

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[Copy.]

*Letter from MR. F. S. WATERMEYER to JOHN GREGORY, ESQRE.*

TOWN AUDIT OFFICE, 30th October 1826.

SIR,—In reference to a Statement of Assessed Taxes due to the Town Treasury, submitted to His Majesty's Commissioners of Inquiry on the 24th of July last, I have the honour to acquaint you, that the Tax Roll for the period from 31st March 1825 to 1st April 1826, recently closed and approved of by his Honor the Lieutenant-Governor, shows the following amounts ; viz.

Hearth-money . . . . .	£1,328	1	3
Water-leading tax . . . . .	1,564	1	0
Tax on private water-pipes . . . . .	300	15	0
Tax on income . . . . .	1,283	0	6
Ditto, for Caffre commando . . . . .	1,260	6	9
	<hr/>		
	£5,736	4	6

I have &amp;c.

(Signed) F. S. WATERMEYER, Acting Town Auditor.

[Office Copy.]

*Letter from R. W. HAY, ESQRE., to THOMAS PRINGLE, ESQRE.*

DOWNING STREET, 31 October 1826.

SIR,—Having laid before Earl Bathurst your letter of the 23rd instant, I am directed by his Lordship to acquaint you in reply that an annual stipend of £100 will be allowed to the Clergyman who may proceed to the Cape of Good Hope for the purpose of attending to the spiritual wants of the Inhabitants at Baviaan's River, and it will remain for his Congregation to provide for any addition which may be considered necessary to such an allowance. I am &c.

(Signed) R. W. HAY.



[Original.]

*Petition of MR. THOMAS WILLSON to the KING.*

To the King's most excellent Majesty, &c., &c., &c.

The humble Petition of Thomas Willson, of Stockwell, Gentleman, Head of a party of Settlers of one hundred families consisting of upwards of Three hundred Individuals whom he located in the District of Albany, Cape of Good Hope, in the Year 1820 ; under a pledge previously obtained from Your Majesty's Government that he should be reimbursed in his Deposit Money, and receive as a Reward for his Enterprise and Services a Grant of Ten thousand Acres of Land for himself and his Heirs in perpetuity.

May it please Your Majesty,

Petitioner confiding in the pledges of Your Majesty's Ministers, in conformity to their preliminary requisition, paid into Your Majesty's Treasury the stipulated Deposit of Eleven hundred and seventy seven pounds ten shillings ; and nothing doubting of the Integrity of the promise of Your Majesty's Government, he fearlessly embarked his family and proceeded with his party of Settlers to the Cape of Good Hope, where, after duly fulfilling and faithfully discharging all his obligations towards Your Majesty's Government he had the mortification to find himself wholly deceived in his expectations of reimbursement, and betrayed into a visionary hopeless and ruinous pursuit ! Up to the present hour Your Majesty's Government have not fulfilled or discharged the smallest obligation of its pledge towards Petitioner !

Petitioner having passed the days of his youth, all the early years of his life in the public service of Your Majesty, feels it most Irksome, although an Imperative duty which he owes to himself and family to make this present Appeal to Your Majesty.

Petitioner is not unknown to Your Majesty's Government, the peculiarity of his sufferings have been but too amply detailed in a correspondence of Seven Years with the Right Honorable Secretary of State ; Petitioner has made every humble endeavour, becoming a good and loyal subject, to obtain redress ; and it will unquestionably be admitted that

he has exercised every forbearance, at all times separated himself from the feuds and cabals which have disturbed the local Government at the Cape: It having at length been intimated to him from the Council Office that his case “does not properly come under the cognizance of the most Honorable Your Majesty’s Privy Council,” It is to the paternal and benevolent breast of Your Majesty alone that Petitioner can look for redress!

It is well known to Your Majesty’s Government that the pecuniary losses sustained by Petitioner have been very considerable; as well as the sacrifice of the most Important period of his life; viz. Seven years of the very prime of his life have been consumed since he embarked in the unhappy and ruinous Expedition: He does not however presume to approach Your Majesty with any mercenary calculations of his claims, but the reimbursement of a third part only, of his Deposit Money, must be quite evident, was of itself calculated to frustrate his hopes and paralyse his views as a Colonist; the very Sinews of his Enterprise being thus lopped off, rendered his position in the Colony utterly untenable; exposed him to the violence of a lawless assembly of Men, Women and Children, to the virulence of their perpetual obloquy and slander; actually entailing upon Petitioner the entire onus of a base transaction which subjected him to endless persecutions, a succession of numerous vexatious arrests, and a most ruinous Expenditure of his Capital.

The Personal degradation too which has been inflicted upon Petitioner is no less goading than prejudicial to his Character; basely Insulted also by the semi-barbarous Commandant at Algoa Bay after Petitioner had proceeded with his party to the Frontier, and had located the Settlers in the District of Albany agreeable to his stipulations with Your Majesty’s Government; He was threatened with personal violence and the Military vengeance of that uncivilized Officer, if Petitioner dared to pause, in obeying his Insolent unqualified command; which would have plunged Petitioner with his three little children and his Wife, who was dangerously ill at the time, almost at the point of death, into precipitate ruin, undoubted and evident destruction! Tormented with the pangs of his Military proscription, and moreover threatened with a Troop of Soldiers

to force Petitioner and family into the Waggon which in spite of every polite remonstrance this rude officer arrogantly and outrageously planted for several days in succession at the entrance of Petitioner's Marquee to drag him and his family into the Interior of South Africa ! until the very Soldiers cried out shame ! and Petitioner's Wife in the agony of despair, appealed to higher Authority ; and for the honor of His Excellency, the humane Governor, he instantly commanded the restitution of Petitioner's rights, the free exercise of his discretion.

The personal employment of Petitioner also, and the time and labour of his Indentured Servants likewise, were both put into requisition by the said Commandant, in the erection of sundry Buildings at Algoa Bay for the Military Service of Your Majesty ; for which Petitioner never received the smallest compensation or fee, or reward of any kind whatever, although from delicacy and loyalty to Your Majesty, he cheerfully devoted himself to this Service, and refrained from urging his just claim to remuneration.

Petitioner ever confiding in the Integrity of Your Majesty's Ministers, flattered himself that he could not fail at least to receive the promised Boon of the Ten thousand Acres of Land, pledged in the name of Your Majesty by the Right Honorable Secretary of State, in compensation for his toils ; a severity of unparalleled servitude, which no language is adequate to describe. Will it be believed that Petitioner has notwithstanding failed to receive even this stipulated Boon from Your Majesty's Government ! After a most tedious, harassing and vexatious Correspondence of so many Years with the Right Honorable Secretary he is at last told that his Petition to the Privy Council " does not properly come under the cognizance of their Lordships " because there is no precedent for such a case ! and that his Memorial has somehow been lost or mislaid and consequently cannot be returned to Petitioner ! Gracious Heaven, Sire, will the Government of Your Majesty rather prefer to suspend its functions than find a precedent in this case ! Will Your Majesty's Ministers prefer to sully the purity of Your Majesty's honor, the dignity of Your Majesty's Throne, and stagnate the fountain of Justice at its very Spring, rather than adopt a precedent !! If the Mercy Seat of the State is

thus inaccessible to Your Majesty's oppressed Subjects, to what end is the Government ?

Your Majesty's Ministers in their Official Capacity as Trustees of the Public Faith, have promulgated a public pledge, seductive and alluring in its promise, which obtained the confidence of Petitioner as well as several other of Your Majesty's Subjects : can the violation of so sacred a Trust be tolerated ? God forbid that the Bond of Civil Society should be so cruelly broken down : How, or where, could Your Majesty's Subjects in future look for Security or Truth in any public Declaration of the State ? To a Worthy and a Generous Spirit Death itself must be preferable to Life, when suffering under the pangs of such unhallowed breach of Faith.

Can Your Majesty's Government be satisfied to reject the claim of an Individual, who has been almost ruined by confiding in their high promise ; who has entirely reposed in the good faith of the high Integrity of the State. The Name of Your Majesty, the honor of the Country, the Character of Ministers, All were pledged for the Security of Petitioner, and the Dignity of Your Majesty's Crown stands as a barrier to uphold the plighted Faith of the Government ! Petitioner therefore, in the loyalty of his heart, still feels confident that the result of this appeal to Your Majesty cannot fail to obtain for him a just, and a merciful compensation.

Petitioner most humbly prays that Your Majesty will receive this simple unvarnished relation of his Grievs, as a plain Manly Statement of facts merely, by no means hostile or disaffected towards Your Majesty's Government ; Undismayed but not presumptuous, Your Majesty has not a more faithful and devoted, Loyal or affectionate Subject in Your Dominions than Petitioner ; No Servant of Your Majesty's Household would more sincerely and zealously lay down his Life for the true Interests, Safety, and Glory of Your Majesty. And will Your Majesty's Government make no distinction between the well affected and the disaffected ? Will they descend from the Throne of Grace, and consent to reward evil for good ? Petitioner is no Stranger to Your Majesty's Ministers, who do not, cannot reject the veracity of his Statements, they merely pause for " precedent ! " Petitioner therefore most humbly craves at the Hands of Your Majesty, that amelioration of his Grievs,



which Honor and Truth, Humanity and Justice, Mercy and common Honesty, morally suggest.

And Your Petitioner will ever pray.

(Signed) THOS. WILLSON.

BELMONT COTTAGE, STOCKWELL,

31st October 1826.

[Original.]

*Letter from MAJOR-GENERAL BOURKE to EARL BATHURST.*

GOVERNMENT HOUSE, CAPE TOWN, *November 1st 1826.*

MY LORD,—With reference to your Lordship's despatch of the 2nd December 1825, addressed to Lord C. Somerset, I have the honor to inform you that Lieutenant-Colonel Bird, having lately returned to this Country, has on my application surrendered the Grant of a Plot of Ground in Cape Town formerly assigned him by the Acting Governor Sir R. S. Donkin.

I have &c.

(Signed) RICHD. BOURKE.

[Original.]

*Letter from DR. JAMES BARRY to EARL BATHURST.*

CAPE TOWN, *November 1st 1826.*

MY LORD,—I did myself the honor to address a letter to your Lordship several months since thro' H.M. Commissioners of Inquiry referring to the Cruel, Disgraceful, and I contend Unjustifiable manner in which I had been deprived of my office, my professional Character materially injured, and my fair prospects in life quickly blighted. I did set forth the proximate cause of these Transactions, but the first, the pre-disposing Cause, I held back ; trusting that when Lord C. H. Somerset reflected upon the circumstance coolly and dispassionately, his sense of justice would induce him to see me righted.

I have waited : nothing has been done ; but to my uttermost astonishment I have just learned thro' my friends in England that my conduct, respecting a statement that I had made of an opinion of Colonel Bird's regarding Lord Charles Somerset, has been much misrepresented to Your Lordship. This indeed accounts for the delay ; I therefore hasten to inform you that I have consequently communicated *confidentially* the whole and every circumstance in detail to my friend Sir Jahleel Brenton, who is authorized by me to communicate the same personally to your Lordship, if necessary ; or, in the event of his not being able to do so, thro' either of my friends Mr. Jas. Stuart or Mr. Henry Ellis.

I have only further to say that my silence hitherto on this subject arose (and my present backwardness arises) from my sincere and ardent wish to do nothing that could in any way injure Lord Charles Somerset ; but solely to rescue my good name from Dishonor ; and this I have endeavoured to impress strongly upon the minds of my friends, who are men of strict honor. I have &c.

(Signed) JAMES BARRY, M.D.

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[Original.]

*Letter from MR. THOMAS DAMANT to R. W. HAY, ESQRE.*

16 ALBANY STREET, REGENT'S PARK, 3rd November 1826.

SIR,—Understanding it is the intention of Government to encourage Emigration to the Colonies, and Earl Bathurst having acceded to my request for a grant of Land at the Cape of Good Hope, I beg leave to enquire whether any allowance will be made for the passage of the Persons I am desirous of taking out, as without such assistance it would be decidedly preferable to procure servants in the Colony. I have &c.

(Signed) THOS. DAMANT.

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[Original.]

*Letter from SIR RICHARD PLASKET to R. W. HAY, ESQRE.*

COLONIAL OFFICE, CAPE OF GOOD HOPE, 4th November 1826.

SIR,—I beg leave to acquaint you that the ship *Britannia* of 460 tons, Captain Bouchier, struck upon a rock and shortly after ran on shore and became a total wreck in St. Helena Bay on the coast of this Colony on the 22nd of the last month.

The passengers have fortunately been saved, but it is not probable that the mails which were deposited in the after hold of the ship will be recovered.

It is stated by the Captain of the vessel that two boxes of letters for the Cape were sent on board from the Post Office, but we are not aware of any despatches having been forwarded by her. Should that however be the case I have to request you will be good enough to order duplicates thereof to be sent out with as little delay as possible. I have &c.

(Signed) RICHD. PLASKET.

[Office Copy.]

*Letter from R. W. HAY, ESQRE., to MR. THOMAS PRINGLE.*

DOWNING STREET, 6 November 1826.

SIR,—I have received and laid before Earl Bathurst your letter of the 23rd instant, and I am desired to acquaint you in reply that his Lordship is not disposed to reject your application altogether, although he sees little or no prospect at present of being of service to you.

You are aware that it was exclusively for your conduct as a Settler that his Lordship felt inclined to hold out to you any encouragement ; but as you have quitted the Cape, you have placed it out of his Lordship's power to assist your views in the manner that might have been done, if you had remained in the Colony. I am &c.

(Signed) R. W. HAY.

[Original.]

*Letter from* CHARLES GEORGE BARON LORENTZ *to* EARL  
BATHURST.

CAPE TOWN, *November 6th* 1826.

MY LORD,—The condescension and kindness which your Lordship evinced towards me in England emboldens me to hope that your Lordship will kindly receive, once more, my grateful thanks for the appointment you have conferred upon me, and although I can alone attribute the good opinion which your Lordship formed of me to the interest, *taken in my welfare* by Her Royal Highness the Duchess of Cambridge, I trust that I may some time have some personal claim to it, by a conscientious discharge of any duties with which your Lordship may entrust me. I have now discharged the arduous duties of my present office eight months, and I with confidence appeal to the Lieutenant Governor, who has had an opportunity of observing my conduct, if I have not incessantly striven for the best, and whether my efforts have been crowned with good effect, or not ; much remains still to be done, I grant, but in six months more I hope to have surmounted every difficulty. I may assert, my Lord, without fear of contradiction, that there is no Department in this Colony upon *whose Head* devolves such incessant labour, or whose situation is replete with so much care and anxiety, as mine, and with this conviction I without hesitation appeal to your Lordship to decide upon my claim to an increase of salary ; my duties require me to have the aid of horses &c., and my situation, and station in life, demand that I should keep up the appearance of a gentleman ; with my present salary I cannot do this. It is however not upon this principle that I found my claim to an increase of salary, but upon the *plea* that the duties performed by me are deserving of it. Your Lordship will please to recollect that any individual sent from Europe to fill a situation in this Colony labours under numberless disadvantages, and I have no hesitation in saying that a native of this Colony (holding a Government appointment) with his local advantages of possessing slaves, having most probably his own house, or at all events holding it upon very easy terms, is better paid with £300 a year, at least he can do more with it, than a stranger



with my salary of £700 a year. Your Lordship will forgive my entering into such minutiae, but it will no doubt surprise your Lordship when informed, that I paid, for the first six months after my arrival at the Cape £22 10s. per month for an unfurnished house, and with very trifling advantages; everything is dear in proportion. I do not rest my claim however solely upon my present statement to your Lordship, but willingly leave the decision to the merits of the case; but as my appointment was your Lordship's own gift, I confidently trust that should your Lordship find that I am not undeserving of your countenance, that you will be pleased to order me an increase of salary, and I may make bold to assure your Lordship that my appointment could not be filled by any individual who will feel a greater pleasure in discharging his duties with credit and honor to himself, and above all to be deserving of Your Lordship's approbation.

I trust that your Lordship will not consider it presumptuous on my part to inform you, that our worthy Lieutenant Governor has laboured incessantly, even to the injury of his health, for the good of the Colony since he has taken the reins of Government, and that he has imparted among the Inhabitants of this Colony, I may say, *a general feeling of confidence and satisfaction*. Allow me, my Lord, to express my sincere wishes for your Lordship's health and happiness, and to subscribe myself &c.

(Signed) CHARLES GEORGE BARON LORENTZ.

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[Original.]

*Letter from* LIEUTENANT T. C. WHITE *to* R. W. HAY, ESQRE.

13 DUKE STREET, ST. JAMES', November 6, 1826.

SIR,—At the interview with which I was honored on Tuesday last, you informed me that a communication had been made to the Lieutenant Governor of the Cape for the purpose of obtaining further information on the subject of the grant made to me by Sir Rufane Donkin, His Excellency Lord Charles Somerset's statement differing materially from that which I have had the honor to submit to Earl Bathurst.

I now beg leave to offer the accompanying documents, trusting that His Lordship will find in them such a confirmation of my statement as will enable him to decide upon my claim without the very serious delay with which a reference to the Cape would unavoidably be attended.

The accompanying papers marked 1 and 2 prove that I was invited by the Governor himself to absent myself from my location, and that His Excellency, to prevent my absence in the service of Government proving prejudicial to my private interests, directed that in the execution of the different grants mine should have "priority."

The papers marked 3, 4, and 5 prove that His Excellency Lord Charles Somerset's refusals to confirm the grant made to me by Sir Rufane Donkin have no reference to the Landdrost's report, as the refusals are dated 18th November and 27th December 1822, whereas the date of the Report is 14th May 1823. This Report, I beg to observe, is the only document which seems to support His Excellency Lord Charles Somerset's statement.

With regard to the Report just alluded to, and the degree of credit which is due to it, I beg to observe that my letter of the 10th August last contains extracts from my written communications to His Excellency Lord Charles Somerset and to the Commissioners of Inquiry, proving that I lost no time, on being furnished with a copy of it, in pointing out the misrepresentations which it contained, and I respectfully submit that no stronger proof can be afforded of my charge against the Landdrost of having misrepresented the state of my location being well founded, than that it still remains unanswered. Indeed it was not possible for Mr. Rivers to defend himself against it, for he had reported upon land which he had never inspected, and the attempt would therefore infallibly have convicted him not only of making a false report but of disobeying the instructions which he had received from His Excellency the Governor. The extracts contained in my letter of the 10th of August further prove that my party on taking possession of the new location in the Zuurveld consisted of 4 men, 1 woman, and 3 children, and not of one person only as stated to His Lordship.

The accompanying document No. 6 was sent to me by Colonel

Bird, then Colonial Secretary, for the purpose of proving that a communication *had* been made to the Landdrost, Mr. Rivers, on the subject of my claim, notwithstanding his assertion to the contrary.

The papers marked 7 and 8 will, I trust, prove to His Lordship that the insufficiency of the information conveyed to him is not owing to any remissness on my part; and he will not, I am convinced, because the best proof—that of actual inspection by a public officer—was not required by the competent authorities at the Cape, (a circumstance over which I had no control) oblige me to relinquish the expectation I still entertain, of being enabled through His Lordship's interposition to reëstablish myself at the Cape.

The Commissioners having pointed out the impossibility of an early restitution of my Farm, even though I should accompany them to the District in which it is situated, I was under the necessity of returning to England, leaving the house which I had erected on the grant in the occupation of one person only. The Report now required by Earl Bathurst will consequently describe the grant not such as it was when I was dispossessed of it, but as it is become in consequence of all agricultural operations having been suspended upon it for more than three years. My Memorial was presented to His Excellency Sir Rufane Donkin by Captain Campbell, who has ceased to act as Deputy Landdrost, and in presence of Major Jones who had just arrived to assume the Landdrostship of the District, but who is at present, as I am informed, in England. Captain Campbell had personally inspected the Farm, and Major Jones was acquainted with the circumstances under which the grant was made to me by Sir Rufane Donkin.

Permit me, Sir, to add that notwithstanding it has been my anxious desire to convince Earl Bathurst that in soliciting a grant of land it was my serious intention to bring it into cultivation, and that I did employ upon it an adequate number of labourers, yet I would respectfully submit to His Lordship that Sir Rufane's grant being unconditional, the points upon which I am unfortunately at issue with His Excellency Lord Charles Somerset do not affect the claim which I derive from it.

Trusting that the official documents which I have now the honor to transmit incontestably establish the correctness of my

statement, I again respectfully appeal to His Lordship for the means of reëstablishing myself in the Colony with the same prospect of success as before. I have &c.

(Signed) T. C. WHITE.

[All the documents transmitted with this letter have already appeared.—G. M. T.]

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[Office Copy.]

*Letter from R. W. HAY, ESQRE., to W. GRIFFIN, ESQRE.*

DOWNING STREET, 7 November 1826.

SIR,—I have received Earl Bathurst's directions to transmit to you herewith enclosed a dispatch and its enclosures which have been received from Major General Bourke, the Lieutenant Governor of the Colony of the Cape of Good Hope, proposing that the Ordnance Department should yield to the Government of the Colony the buildings at Wynberg upon the conditions specified by the Major General, and I am to desire that you will submit those papers for the consideration of His Grace The Master General and Board of Ordnance. I am &c.

(Signed) R. W. HAY.

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[Original.]

*Letter from MR. THOMAS DAMANT to R. W. HAY, ESQRE.*

16 ALBANY STREET, REGENT'S PARK, 9th November 1826.

SIR,—I have the honor to acknowledge the receipt of your letter of the 7th containing Earl Bathurst's reply to my letter of the 3rd.

May I request (as but little time will be required in making preparations for my voyage without a Party) that you will put me in possession of a copy of the letter which his Lordship had the goodness to say would be transmitted to the Government at the Cape, at your earliest convenience. I am &c.

(Signed) THOS. DAMANT.



[Original.]

*Letter from MAJOR-GENERAL BOURKE to EARL BATHURST.*CAPE OF GOOD HOPE, *November 10th 1826.*

MY LORD,—I have the honor to transmit to your Lordship the General Monthly Return of the Forces serving under my command to the 25th October 1826. I have &c.

(Signed) RICHD. BOURKE.

[Original.]

*Letter from DR. JAMES BARRY to R. W. HAY, ESQRE.*CAPE TOWN, *November 10th 1826.*

SIR,—I have this moment received your letter of the 22nd of June last, acquainting me that Earl Bathurst “sees no reason to doubt the propriety of the arrangement which has been recently made by the Governor of the Cape for vesting in a medical Board the Execution of the duties which had previously been assigned to the Colonial Medical Inspector.” This death blow to my well founded hopes that Earl Bathurst would not sanction the ruin I have so unmeritedly been involved in compels me once more to bring my case to his Lordship’s notice to prevent the motives of my application being misunderstood. I beg to disclaim any intention of requesting the restoration of my Situation of Colonial Medical Inspector, since I do not complain of the abolition of the office or of its duties being transferred to a Medical Board ; but I do complain of the unprecedented and to me injurious and disgraceful manner in which it was done, and in which I was so abruptly removed ; and also, I contend, the injustice of my not being placed at the head of that Board, after the arduous and zealous professional Labours in which I had been engaged for a series of years, without any imputation on my conduct during that period.

On the 1st of this month I addressed a letter to Lord Bathurst, and beg to express thro’ you my hopes that when his Lordship shall have considered the circumstances under

which I was deprived of my Situation, my professional reputation defamed, and my peace of mind destroyed (which will be laid before him by my friends), his Lordship's sense of justice will induce him to consider me as entitled to that redress which an injured man has a right to expect at his hands. It is perhaps here needless for me to enforce how dear, how very dear to me, my good name is ; and how very anxious I am to make every human effort in order to avert the heavy Calamities consequent to the loss of it.

I therefore deem it my bounden duty to vindicate my Integrity, and to rescue it as soon as possible from the unworthy imputations which have been heaped upon it ; and to manifest my honorable Transactions to the World ; without which even my claims to, and anxious expectations of Military promotion may continue to be obstructed, if not totally annihilated.

I am &c.

(Signed) JAMES BARRY.

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[Office Copy.]

*Letter from R. W. HAY, ESQRE., to LORD CHARLES SOMERSET.*

DOWNING STREET, 11th November 1826.

MY LORD,—The Collector of Customs at the Cape having acquainted Major General Bourke that your Lordship had undertaken to make some representation to His Majesty's Government in regard to the Collector's liability to make good the amount of a deficiency occasioned in the receipts of his Office by the peculation of a Clerk, I have received Earl Bathurst's directions to enquire whether it is in your Lordship's intention to make any such representation on behalf of the Collector. I have &c.

(Signed) R. W. HAY.

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## [Office Copy.]

*Letter from* EARL BATHURST *to* MAJOR GENERAL BOURKE.

DOWNING STREET, LONDON, 13 November 1826.

SIR,—This letter will be presented to you by Mr. Damant, who has been recommended to me as a Gentleman who is desirous of settling himself at the Cape of Good Hope, where he wishes to turn his attention to Agricultural pursuits.

As Mr. Damant has been in the Colony already, he will be enabled to explain to you at once what his immediate views are; and I have only to desire that in allotting to him a Grant of Land adequate to his means, you will shew him any reasonable indulgence in the selection of the land.

I have &c.

(Signed) BATHURST.

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## [Office Copy.]

*Letter from* R. W. HAY, ESQRE., *to* LORD CHARLES SOMERSET.

DOWNING STREET, 13th November 1826.

MY LORD,—Major General Bourke having applied for directions upon the subject of a pension which your Excellency has assigned to Mr. Hart the late Superintendant of Somerset Farm, I am directed by the Earl Bathurst to request that your Excellency will acquaint his Lordship with the grounds upon which it may have been your intention to recommend Mr. Hart for such pension.

I enclose the dispatch which Major General Bourke has addressed to Earl Bathurst upon this subject, together with your Excellency's dispatch therein referred to; which documents I must request you will have the goodness to return.

I have &c.

(Signed) R. W. HAY.

[Office Copy.]

*Letter from R. W. HAY, ESQRE., to LORD CHARLES SOMERSET.*

DOWNING STREET, 13 November 1826.

MY DEAR LORD,—I am desired by Lord Bathurst to enclose for your consideration a dispatch from Major General Bourke upon the subject of the Government Farms. I have &c.

(Signed) R. W. HAY.

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[Office Copy.]

*Letter from R. W. HAY, ESQRE., to W. HILL, ESQRE.*

DOWNING STREET, 13 November 1826.

SIR,—I am directed by Earl Bathurst to transmit to you enclosed for the consideration of the Lords Commissioners of His Majesty's Treasury a copy of a letter which has been received from the Agent for the Cape of Good Hope enclosing a statement of the demands which he expects to be made upon him in the course of the current quarter, and I am to desire that you will move their Lordships to cause such an issue to be made to Mr. Courtenay as will enable him to carry on the service of his Agency. I am &c.

(Signed) R. W. HAY.

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[Office Copy.]

*Letter from R. W. HAY, ESQRE., to JOHN BARROW, ESQRE.*

DOWNING STREET, 13 November 1826.

SIR,—With reference to your letter of the 2nd May last in which you enquired whether any particular circumstances had occurred to render it necessary to request that fresh instructions should be issued with respect to the conveyance of His Majesty's Commissioners of Enquiry from the Cape of Good Hope to the Mauritius, I am now directed by Earl Bathurst to transmit



to you enclosed an Extract of a communication which has been received from His Majesty's Commissioners upon the subject of an application which they had made to the Senior Naval Officer at the Cape, relative to their removal from that Colony.

I am &c.

(Signed) R. W. HAY.

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[Office Copy.]

*Letter from R. W. HAY, ESQRE., to W. A. HANKEY, ESQRE.*

DOWNING STREET, 13 November 1826.

SIR,—I have received the directions of Earl Bathurst to acknowledge the receipt of the Memorial which you addressed to his Lordship under date of the 14th September on behalf of the Directors of the London Missionary Society, representing that the Missionary at Theopolis who superintends the concerns of that institution has, with the sanction of the Society, been under the necessity of declining the acceptance of a strip of land lying between the Institution and the late Lieutenant Colonel Frazer's Estate, and requesting that a tract of land lying between the Institution and the Sea be assigned to the Establishment, for the purpose principally of enabling the inhabitants to make lime both for their own use and for traffic in the Interior. His Lordship desires me to acquaint you in reply that in compliance with the request made by the Society, directions will be given to the Lieutenant Governor of the Cape to grant the land in question to the Institution at Theopolis, or as much of it, with access to the sea, as that Officer may deem fit to limit, and without restriction of the right of the Society to purchase land, but subjecting the Grant to the Quit Rent imposed on other Lands. I am also desirous to take this opportunity of acquainting you, with reference to the Memorial which his Lordship received from the Directors of the London Missionary Society under date of the 4th of July 1825, that before that time an arrangement had been entered into with Dr. Philip for the payment of the Opgaaf, which both he and Mr. Kitchingman, the Superintendent of Bethels-

dorp, stated to be perfectly satisfactory. With respect however to the Caledon Institution, I am to acquaint you that His Majesty's Commissioners of Enquiry having found it necessary to recommend the removal of the Missionary who had been appointed to superintend that Establishment, it was in the intention of the Colonial Government to appoint a Moravian Missionary to the superintendence of Caledon, which Institution, not having been originally founded by the London Missionary Society, is not considered subject to its control.

I am &c.

(Signed) R. W. HAY.

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[Office Copy.]

*Letter from* EARL BATHURST *to* MAJOR-GENERAL BOURKE.

DOWNING STREET, LONDON, 14 November 1826.

SIR,—With reference to the instruction which I conveyed to Lord Charles Somerset on the 29th of August of the preceding year to suspend Mr. Rivers from his Office of Landdrost of Swellendam, I have now to acquaint you that in consideration of the distressed state to which Mr. Rivers has been reduced, I am disposed to authorize you to employ him again as Landdrost, provided it be in a situation of less responsibility than that of Albany, or in any other Office of minor importance which you may consider to be suited to his capacity.

In making this communication to Mr. Rivers you will, however, feel it your duty not to omit to reprimand him for the great remissness of his conduct whilst Landdrost of Albany, and in some of his subsequent transactions; a remissness which has brought upon Mr. Rivers the most unfavorable representations from the Commissioners of Enquiry, and which I am only contented to pass over without further notice, in the hope that the measure of suspension from Office which I had felt myself called upon to direct, will operate as a warning to Mr. Rivers against falling into similar errors for the future.

I am &c.

(Signed) BATHURST.

[Office Copy.]

*Letter from R. W. HAY, ESQRE., to LIEUTENANT WHITE.*

DOWNING STREET, 15th November 1826.

SIR,—I am directed by Earl Bathurst to inform you that after a full reconsideration of all the circumstances of your case, more particularly as it has been explained by you in your letter and its enclosures of the 6th instant, his Lordship feels disposed to give orders to the Lieutenant Governor of the Cape to make to you a regular grant of your original location in that Colony, to which will be added a portion of Land commensurate with the extent of pasturage requisite for an adequate stock of Cattle ; and I am further to add that if by reason of the local arrangements which may have been made in the Settlements since your departure from the Colony, the Lieutenant Governor should not have it in his power to comply with these directions, he will at the same time be instructed to assign your present location to the person whom you have left in occupation of it, and to make to you a new grant of land in an eligible situation. I am &c.

(Signed) R. W. HAY.

[Office Copy.]

*Letter from R. W. HAY, ESQRE., to CAPTAIN DAMANT.*

DOWNING STREET, 15th November 1826.

SIR,—Having laid before Earl Bathurst your letter of the 9th Instant, I am directed to acquaint you in reply that no instructions have yet been transmitted to the Cape of Good Hope on the subject of the Grant of Land which you are desirous of obtaining in that Colony, his Lordship never having been made acquainted with your final determination to return thither. His Lordship has however desired me to forward to you a letter to the Lieutenant Governor of the Colony in which he is instructed to give you every facility for obtaining a suitable grant of land ; but (as has been already stated to you)

you must not expect that you will be enabled to select the land which you may wish to bring into cultivation. I am &c.

(Signed) R. W. HAY.

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[Copy.]

*Resolutions of the Synod of the Colonial Reformed Church.*

REGULATIONS RESPECTING THE ORDINATION OF MISSIONARIES.

1. A missionary wishing to be ordained, whether he has qualified himself thereto abroad or here, shall, in case he does not belong to any particular station of labour, towards the attainment of his desire apply to the first Presbytery, or in case the place of his destination be fixed, to that presbytery to which such place belongs.

2. The Presbytery shall not receive that request till that the applicant shall have produced the following vouchers, namely : 1st, Should he come from abroad, his pass to remain in the Colony ; 2nd, Certificate of his confirmation in the Christian Religion of the Reformed Church ; 3rd, His deed of admission to act as Missionary.

3. The request is thereupon to be submitted by the presbytery to the next assembly of the Synod, accompanied by the necessary Vouchers.

4. The application being received and admitted by the Synod, the applicant must submit to an examination before the Synod, on which occasion, although the examination is to be made by the Moderator, each member of the Synod shall however be at liberty, should he think proper, to propose any questions to the candidate provided they do not interfere with the others, but waiting till the Reverend President affords an opportunity so to do.

5. The examination being gone through to the satisfaction of the Synod, the candidate shall receive his Qualification to administer the Holy Sacraments under the following conditions, namely : 1st, That he in general as a member of the Reformed Church must conform to all the Laws and Regulations observed by us ; 2nd, That he, in particular, as Missionary having been



confirmed in the Reformed Religion and as such giving Instructions to the Heathen in this Colony, shall be obliged to observe all such Regulations as have been already or shall be hereafter made by the Synod respecting the giving of Religious Instruction by other qualified Teachers, at all events in so far as it can be done in his capacity as Missionary and in the circle of his labours ; 3rd, That he shall in every respect be subject to the directions and Regulations of the different established Church Governments of the Reformed congregations in this Colony, and in the first place to the direction of the Church Council and further to that part of the presbytery within the dependency of which he dwells and labours ; 4th, That in the whole discharge of his duties he shall not do anything whatsoever which can either directly or indirectly infringe on the rights of the established congregations or the existing orders, but on the contrary he shall have to confine himself to the administration of the Holy Sacrament to and among the Heathen, who being converted to Christianity and formed into congregations, he shall in no respect intrude himself among other Christians, neither allow them to partake of the Lord's Supper, nor withdraw them from their Churches or Ministers ; that he being found to have proceeded further with the administration of the Holy Sacrament among the Heathen whom he may have converted to Christianity, he shall entirely forfeit his admission thereto ; that further he shall not administer Baptism except to those who having arrived at the years of discretion shall seem by their confession of faith to evince the necessary knowledge to entitle them to be called Members of the Christian Church or to their Children ; neither shall he administer the Holy Sacrament of the Lord's Supper otherwise than conformably to the established Regulations of the Reformed Church on this subject, namely only to the congregation assembled for that purpose, and such agreeably to the Church Forms, with observance of everything belonging thereto ; 5th, That he shall make and sign the following Declaration :—

“ We the undersigned Missionaries for the propagation of the Christian Religion among the Heathen of Southern Africa confessing the faith of the Christian Religion, and persisting in the confession of faith already made by us at our confirmation

which we now repeat at this our present Theological Examination, do hereby most solemnly declare that we heartily embrace the Doctrine which conformably to God's Holy word is contained in the Forms of Unity of the Dutch Reformed Church, promising faithfully to follow and teach the same in our religious Instruction to and among the Heathen, and that we will strictly act in every respect conformably to the Regulations likewise established in this Colony by the Reformed Church on the subject of Religious Instruction."

"And as the Synodical Assembly of the Dutch Reformed Church in this Colony have been graciously pleased at our request and according to their High Judgment thereon, to allow us by their highly respected Resolution, in our Missionary capacities, not only to preach the Gospel, but also to administer the Holy Christian Sacraments of Baptism and the Lord's Supper, we therefore hereby most solemnly declare and promise not to make any other use of this power than among the Heathen which may be assembled by us into a Christian congregation; that we will also most carefully avoid all offence to or infringement on the rights of the established Christian congregations, and that in the exercise of these our functions we will entirely follow the practice of the Reformed Church, subjecting ourselves in case of any transgression hereof, or unlooked for immoral conduct, to the orders of the competent church government under whose superintendence the same may be.

"The above I sincerely declare as before the Lord, by this signature."

6. After the signing of this act of signature, the Synod will proceed to the Ordination of the applicant, consisting herein, that the President in the name of the Synod with an appropriate speech and blessing delivers to the candidate his act of admission.

*Form of the act of admission to Missionaries to administer the Holy Sacraments of Baptism and the Lord's Supper.*

Whereas N. N. has appeared before the Synod of the Dutch Reformed Church in South Africa assembled at Cape Town Cape of Good Hope requesting as Missionary conformably to the Synodical Resolution of the 4th November 1824 to be ad-

mitted to administer the Holy Sacraments among the Heathen which may be converted to Christianity, the Synod aforesaid, after the applicant had complied with all the provisions required by the Regulation thereon dated the 9th November 1826, has not hesitated to declare him competent thereto, and he is hereby declared competent accordingly subject to the Stipulations prescribed in said Regulations, and this written Declaration is to serve as his act of admission.

Thus done in our assembly of the Synod held at Cape Town.

N. N., President.

N. N., Scriba.

#### REGULATIONS FOR THE CHURCH VISITATION AT THE PRESBYTERIES.

Art. 1. At each meeting the Moderator shall make due inquiry into the state of the Churches belonging to that Presbytery.

Art. 2. For that purpose all the Members of the Presbytery should be present and those who are absent without legal reasons (to be judged of by the Assembly) shall be fined 12 Rixdollars on behalf of the Synodical funds ; and besides this care must be taken that the Church books be sent in together with a written report conformably to this Regulation.

Art. 3. After the opening of the assembly and when the preliminaries are concluded, the Moderator is to put the following questions to the Delegates :

(1). Is ordinary Divine Service performed in rotation in your Churches on Sundays and Holidays ?

(2). Are sermons regularly preached on the Catechism ?

(3). Are preparatory and thanksgiving sermons preached before and after the Lord's Supper ?

(4). Is the Sacrament of the Lord's Supper administered four times in the year ?

(5). Are catechisations held for those who wish to be confirmed ?

(6). Are members of the church confirmed at the prescribed time, and what is the time appointed by you for that purpose ?

(7). Are the regular domiciliary visits paid, and when was the last made ?

(8). Does the Vestry observe a proper vigilance over the congregation ?

(9). Do the Deacons take proper care for the collecting and keeping of the alms and the other income of the poor and church funds ?

(10). Are the collections and distributions duly accounted for ?

(11). Are there regular records kept of the transactions of the Vestry ? (Here the Moderator asks for the books.)

(12). Of how many confirmed members does the congregation consist according to the last counting, and how many souls is it calculated to contain ?

(13). How many persons have been confirmed, and how many with attestations since the last meeting of Presbytery ?

(14). Are no attestations received which are older than a year nor any given to persons who are gone away longer than a year, excepting for particular and sufficient reasons in both cases ?

(15). Are the baptized, married, confirmed, and departed members duly registered ? (Here inspection is asked of the books which the delegates must bring with them).

(16). Are there Catechists in your congregation, and do they discharge their duty properly ?

(17). Is proper care taken that no preachers hold meetings among the congregation without the consent of the clergyman ?

(18). Is there any reason for complaint of the administration over the Church Buildings and effects ?

(19). Is proper care taken that the situations of Clerk, Sexton, &c., and the other church servants be confided to persons duly qualified thereto ?

(20). Are the Clerks and Sextons confirmed members of the church, and are they of irreproachable character ?

(21). Do the Clerks read and sing the Psalms with proper respect to the edification of the congregation and according to the directions of the Minister ?

(22). Is proper care taken in all the particular parts of public worship to guard against all impediments in religious edification ?

(23). Do the members of the Vestry punctually attend the meetings ?



Art. 4. These questions being answered, the presbytery will act according to the exigencies of the case.

Art. 5. The Scriba of the presbytery shall be obliged to keep regular minutes of all the proceedings.

Art. 6. The Presbytery is to make a general report of this enquiry to the Synod, particularly pointing out whatever requires the provision or attention of the Synod.

#### SYNODICAL RESOLUTION RESPECTING THE CONFIRMATION OF PERSONS OUT OF THE USUAL HOURS.

The Synod has resolved that in future the sum of Rds. 25 shall be levied on each person who wishes to be confirmed in the Reformed Religion out of the usual hours, which sum is to be applied to the Clergymen's Widows' fund, excepting in such cases as wherein the candidates for confirmation could not be present at the usual time, as also when confirmed on the occasion of domiciliary visits or otherwise. The above law is to be strictly observed with respect to those in particular who reside in the neighbourhood of the churches.

#### SYNODICAL RESOLUTION RESPECTING THE PRODUCTION OF A CERTIFICATE OF BAPTISM AT THE TIME OF CONFIRMATION.

CAPE TOWN, 8th November 1826.

The Synod in order to give the better effect to the Synodical Resolution of the 16th November 1824 has resolved that candidates for confirmation shall in doubtful cases produce a certificate of their baptism from the clerk or sexton of the church in which they have been baptized, which must be granted to them *gratis*.

#### SYNODICAL RESOLUTION WITH REGARD TO THE COMPLAINTS RESPECTING THE ASSESSMENT ON BEHALF OF THE SYNODICAL FUND.

CAPE TOWN, 15th November 1826.

The Synod has resolved with respect to the general complaint regarding the assessment on behalf of the Synodical Fund, pursuant to the Resolution of the 3rd November 1824,

1st. That the 10 per cent on the usual collections shall be

provisionally reduced to 5 per cent, to commence from the 1st January next; but during the remainder of the current year it shall be continued on the same footing as prescribed in said Resolution, and

2nd. With respect to the objections made against receiving the churchyard dues in some of the Country Districts, resolved to submit the same to the consideration of His Honor the Lieutenant Governor.

#### ALTERATIONS AND SUPPLEMENT TO ARTICLES 16 AND 11 OF THE REGULATIONS FOR THE CLERGYMEN'S WIDOWS' FUND.

Conformably to the Resolution of the Synod dated the 10th November 1826, the Synod has resolved

1st. That the sum of Rds. 500 a year shall not be increased excepting to the widows of such clergymen as have contributed to the fund for two years, and then in this proportionate augmentation, that according to the greater number of contributing years the sum of Rds. 500 shall be increased with Rds. 50 till it amounts to Rds. 1,000; and this shall be the *maximum*, above which one would not go. Widows whose husbands have contributed

Upwards of two years shall receive 550 Rixdollars.

„	three	„	„	600	„
„	four	„	„	650	„
„	five	„	„	700	„
„	six	„	„	750	„
„	seven	„	„	800	„
„	eight	„	„	850	„
„	nine	„	„	900	„
„	ten	„	„	950	„
„	eleven	„	„	1000	„

Saving what is contained in Article 16 aforesaid (excepting when through an unexpected augmentation &c. &c.).

2nd. That on the decease of a clergyman's widow the half of the annual allowance enjoyed by her shall devolve on the surviving child or joint children begotten in marriage with her late husband, and shall be continued to be paid till the child or the youngest of the children shall have attained the age of sixteen, if not provided for at an earlier period. Like-

wise on the decease of any subscribing clergyman, subsequent to the death of his wife ; with this understanding however that the state of the Fund will allow of it without any prejudice to the interests of the widows.

3rd. That there shall be a special Questor Viduarium, with whom one can pertinently correspond respecting the fund, which Questor shall be appointed from the Ministers of Cape Town, and who for the rest shall communicate and advise with the two junior clergymen in any cases which may occur regarding the said fund. And this Assembly have unanimously found good to appoint the Reverend Mr. A. Faure to be Questor of the Widows' Fund, who has been pleased provisionally to take this office upon him.

4th. It was also resolved to alter Article 11 of the Widows' Fund in such manner that in future the contributors shall instead of quarterly, annually forward previous to the 1st November of each year their subscriptions free of expense to the Questor saving the penalty prescribed by Article 13.

#### SYNODICAL RESOLUTION RESPECTING THE PAYMENT OF THE MONIES COLLECTED FOR THE WIDOWS' FUND TO THE QUESTOR.

CAPE TOWN, 13th November 1826.

The Synod has resolved that the Ministers or, where the congregation is vacant, the Vestry shall be obliged at the expiration of every year to forward to the questor of the Widows' fund an accurate list of the monies which have been collected on behalf of the said fund during that year among the congregation, as well for extra marriages as otherwise ; and they shall at the utmost before the 1st of February of the succeeding year transmit the amount so collected to the Questor free of expense, while in case of neglect the clergyman or, when the congregation is vacant, the vestry, shall be obliged to pay interest on the principal.

#### REGULATIONS FOR THE QUESTOR OF THE WIDOWS' FUND.

Art. 1. The Questor is to receive all the contributions assigned to the Widows' fund by Synodical resolution of the 6th of November 1824, and he is to be personally responsible for all the monies so received by him.

Art. 2. The Questor is to keep regular books of all receipts and disbursements.

Art. 3. He is to give and take regular receipts for every thing which he pays and receives.

Art. 4. The Questor is to pay the widows quarterly.

Art. 5. The Questor is to render an account to the Synod of the state of the Widows' fund.

Art. 6. The Questor is to pay the monies received by him into the Orphan Chamber, when they shall have accumulated to such a sum as according to the usages of that Chamber is allowed to bear Interest. The Widows are to apply to the Questor, who is to give them a certificate for the receipt of their allowance at the Orphan Chamber aforesaid on their requesting the same.

Art. 7. The Questor is to charge the necessary expenses to the Widows' Fund.

#### SYNODICAL RESOLUTION RESPECTING THE CHURCH LIMITS AT THE PAARL, ZWARTLAND, AND TULBAGH.

CAPE TOWN, 11th November 1826.

The Synod has resolved with regard to the proposal respecting the church limits at the Paarl, Zwartland, and Tulbagh, to communicate with the Landdrosts and Presidents of the first and second Presbyteries, and this subject being then laid before the Presbytery, the Regulations framed by them shall be submitted to the Synod for approbation.

#### TARIFF FOR THE EXPENCES OF THE MEETINGS OF THE SYNOD.

1. For travelling expences for each hour's distance with a horse waggon from the church to which the Delegates belong for the journey there and back 2 Rds.

2. Lodging expences for each of the Delegates every day during the sittings and at which they attend, Rds. 2 at the presbytery wherein they be held and Rds. 4 at the Synod.

3. The Delegates from the church where the sitting is held are not to be allowed anything either for travelling expences or for attendance.

4. The Elders who may accompany their Ministers to the meeting shall not be allowed to make any separate charge for



travelling expences, as it is supposed that they are to come together with the Clergyman.

5. No Delegate who does not attend till and at the closing of the sitting shall be allowed any expences for the return journey excepting in cases of sickness or pressing necessity to be judged of by the assembly.

6. No payments shall be made by the Questor before that he receives the following written voucher: "The Secretary of the Presbytery or Synod held at \_\_\_\_\_ hereby certifies that Mr. \_\_\_\_\_ Member of that residing at \_\_\_\_\_ having attended the ordinary assembly on the \_\_\_\_\_ is entitled to indemnification for the following travelling expences, the distance from his church to the place of the assembly being calculated at \_\_\_\_\_ hours at 2 Rds. each.

"For the journey there and back . . . . Rds.

"For expences of lodging &c. at Rds. per day \_\_\_\_\_

"Total . . . . \_\_\_\_\_

"Signed by the Secretary aforesaid."

#### SYNODICAL RESOLUTION RESPECTING CHARGING THE QUESTOR OF THE SYNODICAL FUND WITH THE DUTIES OF THE SCRIBA OF THE SYNOD.

CAPE TOWN, 11th November 1826.

The Synod has resolved that the duties with which the Scriba of the Synod was charged by Synodical Resolution of the 18th November 1824 shall be committed to a Questor Fontis Synodalis to be appointed thereto; and the Reverend Mr. A. Faure has been appointed Questor of the Synodical Fund, which situation he is willing provisionally to take upon him.

#### SYNODICAL RESOLUTION OF THE 13TH NOVEMBER 1826 RESPECTING THE ASSESSMENT FOR THE SYNOD.

The Synod has resolved, in order the better to enable the Questor of the Synodical Fund to keep regular books, as follows:

1. That on the delivery of the books of the respective

Vestries in the month of January of each year a report shall be made to the Questor of the monies collected on behalf of the Synod agreeably to the following form :

“ The Vestry of the Reformed Church at \_\_\_\_\_ hereby certifies that in the year \_\_\_\_\_ the sum of \_\_\_\_\_ Rds. has been assessed among their congregation and its dependencies on behalf of the Synodical Fund as follows :

“ 5 per cent on the ordinary collections . . . Rds.

“ 10 per cent on gifts, legacies, &c. . . .

“ Baptismal fees in the usual hours . . .

“ For Seats in the Church . . . .

“ Burial Fees . . . . .

\_\_\_\_\_ “ Rds.

“ Which sum of \_\_\_\_\_ Rds. is at present in the charge of \_\_\_\_\_

“ N. N.

“ The \_\_\_\_\_ of the year \_\_\_\_\_ .”

2. That the accounts of the expences of the Presbyteries shall be produced at each sitting of the presbytery, and on being approved of shall be signed by the Moderator and Scriba, who is at the breaking up of the assembly to transmit to the Questor of the Synodical Fund a report in the following manner :

“ The undersigned Scriba of the assembly of the \_\_\_\_\_ held at \_\_\_\_\_ hereby reports to the Questor of the Synodical Fund that the undermentioned accounts have been delivered into and approved of by the \_\_\_\_\_ viz.

“ Account of the Delegates for travelling expences, \_\_\_\_\_ hours at 2 Rds. . . . . Rds.

“ For attendance \_\_\_\_\_ days at 2 Rds. per day .

“ ” ” ” ” .

“ ” ” ” ” .

“ Account of the expences of the Scriba of . . .

\_\_\_\_\_ “ Rds. ”

3. That fourteen days after the receipt of said report the Questor shall transmit to the Delegate of the church the following document :

“ Mr. \_\_\_\_\_ the Deacon cashier will be pleased to pay to Mr. \_\_\_\_\_ the sum of \_\_\_\_\_ Rds. \_\_\_\_\_ from the monies of the Synodical fund.

“ Cape Town the \_\_\_\_\_ .”

4. That on the production thereof together with the amounts approved of by the presbytery the Deacon cashier shall be

obliged to honor the same with payment, and to transmit free of expence the surplus together with the above draft in cash to the Questor at the utmost before the 1st of July of each year.

SYNODICAL RESOLUTION RESPECTING THE MODERATORSHIP AT  
THE SYNOD.

1. As conformably to Article 47 of the general Regulations of the late Mr. De Mist the situation of Moderator or Scriba is to be taken by rotation according to the seniority of the churches (by which it can easily happen that the situation of Moderator falls to the turn of a novice) the Synod has resolved that the Ministers must have served at least five years in this Colony to be qualified to fill the aforesaid situation in the Synod, and that should this not be the case, the turn of such person shall be passed by and go over to another. This modification of Article 47 shall be submitted to Government.

2. Should a Minister legally qualified be called to the situation, and that for important reasons he should request to be excused from taking his turn, the legality of the reasons of his excuse must be judged of by the Synod, and if admitted, the next in rotation shall be appointed.

3. Resolved that Emeriti Ministers of the Reformed Church shall have the right but not be obliged to attend the Synod, in order to give elucidation with their *advising* voice, and they are to sit with the Delegates from the church of which they were the Ministers.

4. Resolved that the Synod shall be opened by the Præsis of the Assembly with an impressive speech from the Pulpit; but with regard to the closing the Minister who is the junior member shall perform this solemnity with an appropriate lecture; and should any unexpected impediment occur, he shall take care that his deputy has timely notice thereof, which deputy shall be the next member in rank above him, and in case of his inability then again the next in rank to him. This duty having been once performed by any one as Junior Member, the ensuing turn, should no younger brother come in, shall fall on the next above him, and so successively; but this rotation shall not extend further than to the third member from below, thus continuing among the three junior clergymen, and

when all have taken their turn, begin again anew in the same manner as before, with this understanding however that he who has once performed that duty shall not be called upon again in the same course of rotation, but take his turn in the next course.

SYNODICAL RESOLUTION RESPECTING A SYNODICAL REPERTORY,  
AN ACTUARIUS SYNODI, AND THE ORIGINAL ACTS OF THE  
PRESBYTERIES.

CAPE TOWN, 11th November 1826.

The Synod has resolved that the original acts of the Synod and their appendits and other documents relative thereto shall be preserved and bound, which work is to be proceeded in accordingly. Of these acts an ample index shall be formed in an alphabetical order and kept under the title of Synodical Repertory, and which duty is to be performed by an Actuarius Synodi.

The Synod has resolved that an Actuarius Synodi shall be appointed from among the Ministers of Cape Town, who is to act as such in the intermediate periods between one assembly of the Synod and the other, if necessary with communication and concurrence of the preceding Moderator ; while the duties of the Very Reverend Actuary are to consist herein, viz.

1st. The keeping the correspondence and minutes relative to the affairs of the Synod.

2nd. The care of the books and papers belonging to the Synod and likewise of the Synodical Repertory.

3rd. He shall besides as Archivarius take charge of all the Synodical papers, documents, &c., and carefully keep and preserve them all together in a strong and well-locked chest to be appropriated for that purpose, which for their greater safety is to be placed in a secure apartment of the church.

4th. He is especially directed not to give any papers to persons altho' qualified, without a receipt, and then only for a limited time and under the stipulated conditions that their contents are to be kept secret and not divulged.

5th. He is to report all that has taken place in the intermediate time to the next ensuing assembly of the Synod, to produce all the books, papers, &c., &c., and to take care that



necessary documents from the archives be at hand and laid on the table of the Synod betimes, for which purpose there shall be a smaller portable box, besides the large chest in which the general mass of the Synodical papers are to be locked up, the keys of both of which are to be kept by the Actuary, and for which as well as for all the rest he is to be responsible.

The Synod has also resolved that the original acts of the presbyteries shall be likewise deposited with the Synodical papers, and that the Scribas thereof shall be obliged at the utmost two months after the holding of the presbytery to transmit to the Actuarius Synodi the original acts, of which they are expected to forward the necessary extracts to the members of the Vestry concerned.

The Reverend Mr. J. C. Berrangé is charged with the situations of Actuarius and Archivarius Synodi, who has readily taken upon himself the duties under condition that the necessary expense be paid to his revenue.

#### REGULATIONS FOR THE DIRECTOR OF THE SYNODICAL FUND.

Art. 1. The Questor of the Synodical Fund shall be obliged to keep an accurate account of all the monies received and paid.

Art. 2. He shall render a due account of all his proceedings as Questor to the Synod and submit his accounts to the Rationarii for examination.

Art. 3. His books and each separate head thereof being approved, they are to be signed by the Rationarii, adding the day and year on which it has been done.

Art. 4. He shall for that purpose carefully keep in a secure and separate chest all the accounts together with the original lists of the monies transmitted to him by the Vestries.

Art. 5. He shall for safety deposit those monies in the Government Discount Bank, with which he is to keep an open account.

Art. 6. He shall have authority to write to the Vestries which do not forward their lists betimes, and to report the neglectful to the Synod.

SYNODICAL RESOLUTION RESPECTING THE APPOINTMENT OF  
RATIONARII.

The Synod has resolved to appoint Rationarii for the examination of all accounts of receipts and disbursements connected with the Synodical Fund, who shall do so while the Synod is holding, not however during the sittings, but previously or subsequently thereto ; and they shall make a report thereof to the Synod at such of its sittings as the President shall appoint for that purpose. They are to be four in number, and to be chosen at the Synodical sittings, one from the delegates of the town and one from each of the three presbyteries. For the present the Reverend Messrs. Von Manger, Herold, Thom, and Murray have been appointed.

SYNODICAL RESOLUTION IN THE PROVIDING FOR CONGREGA-  
TIONS WHO HAVE NO PASTOR BY THE APPOINTMENT OF  
A PARSON CONSULENT.

CAPE TOWN, 11th November 1826.

The Synod has resolved that to each congregation vacant or without a pastor, a parson shall be appointed under the title of Consulent, and who shall be the Minister of the nearest congregation provided it be within the jurisdiction of the same Landdrost ; and should it concern Cape Town, one of the clergymen there to be selected by the Town Ministry, and with which Consulent the Vestry which it regards shall in every respect communicate and act in concert in all cases that may occur ; while he on his part shall have four members towards his assistance and support, and he shall especially preside as Head of the Vestries at their meetings whenever it may be necessary and can be done without great expense to the congregation. He is likewise to see that the church duties and administrations be duly discharged, the finances properly conducted, the books and minutes correctly kept, and further take care that every thing regarding the congregation be carried on with order and regularity, specially watching over the religious instruction of the youth and taking care as well for the spiritual welfare as for the external good behaviour of the congregation ; in short, promoting their interests both

within and without and especially being their representative in concert with the Vestry to Government whenever such may be necessary.

SYNODICAL RESOLUTION RESPECTING A PLAN FOR THE ESTABLISHMENT OF A THEOLOGICAL SEMINARY.

The subject of the establishment of a Theological Seminary having been again recommended to the consideration of the Synod, Resolved that the Very Reverend Actuary shall transmit to each presbytery a copy of the plan delivered in to the Assembly of the Synod held in November 1824, in order that they having seriously considered and fully attained this important and desirable object shall submit their plan to the next Synod, when this necessary measure for the promotion and increase of religious knowledge can be carried into effect.

SYNODICAL RESOLUTION RESPECTING THE COMMEMORATION OF THE 6TH APRIL 1652.

CAPE TOWN, 14th November 1826.

The Synod has resolved that on Sunday the 6th of April or the first Sunday following of each year, being the day on which in the year 1652 this Colony was established and thus Christianity introduced, the Ministers shall be recommended to remind their congregations at least in their prayers and thanksgiving of the great and salutary events of that day for the Reformed Church.

(Signed) M. BORCHERDS,  
T. I. HEROLD,  
J. A. TRUTER, Political Commissioner,  
R. J. VAN DER RIET, „

A true translation.

(Signed) HENRY MURPHY.

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[[Copy.]

*Letter from the* REVEREND MESSRS. BORCHERDS *and* HEROLD *to*  
SIR RICHARD PLASKET.

CAPE TOWN, 16th November 1826.

SIR,—We the undersigned in our capacities as Moderators of the Synod lately held of the Colonial reformed Church, take the liberty to forward to you for the Information of His Honor the Lieutenant Governor the Resolutions and documents appertaining thereto, which were passed on that occasion in order to be submitted for His Honor's consideration and sanction.

Conformably to the points of deliberation the Synod at their several sessions always followed as far as possible the list thereof articulatum.

1. Having in the first instance confined their deliberations to the request of Mr. Marquard to be appointed to administer the Holy Sacrament to the Heathen converted by him to Christianity, the Synod previously deemed it necessary to frame a Regulation respecting the Ordination of Missionaries for such purpose according to the annexed document No. 1, upon which after a due examination of the applicant conformably to that Regulation, they granted his request.

2. Respecting the reporting about the state and observance of the particular regulations existing by the different churches, they found that this had been complied with by the 1st Presbytery according to the Synodical Resolution of the 8th November 1824, that in the 2nd Presbytery the matter had not been fully understood, but that it being now elucidated it should be effected at their next assembly; and with respect to the 3rd Presbytery the Synod after the examination of the report of that assembly approved of it.

3. Respecting the report and delivering in of plans for Church visitation, the Synod deemed proper to frame a Regulation to that effect.

4. Respecting the communication and propositions annexed thereto with regard to Art. 43 of the general Regulations concerning the public proposal of candidates for confirmation, the Synod to their great satisfaction perceived that this article has



been observed in most of the Churches and that all the Ministers have taken upon themselves to see that it shall be continued to be followed as far as possible.

5. With regard to the Report and proposition respecting the confirmation of persons out of hours, in order therefrom to derive some advantage to the Widows' fund, it has been resolved that the measure adopted by the 1st Presbytery of the voluntary gift of 25 Rds. for each person confirmed out of hours, should in future be continued in all Presbyteries for the profit of the Widows' fund.

6. With regard to the communication and proposition regarding the Resolution of the 16th November 1824, in order to give the better effect to the same, namely that one shall be obliged to produce a certificate of the Sexton or Clerk from the Register of Baptism to be granted by him *gratis* previous to being confirmed, the Synod taking into consideration the great trouble and difficulty attached to such obligation, resolved that this measure should only be resorted to in doubtful cases agreeably to the annexed Document.

The Synod having now fixed their attention on the 7th article of the points of deliberation under the head of complaints ; and

1st, Respecting the complaints of the Churches with regard to assessing of the Synodical fund, the Synod resolved that the assessment of 10 per cent on the ordinary collections as prescribed by Resolution of 3rd November 1824 shall be provisionally reduced to 5 per cent to commence with the 1st January 1827, and with regard to the objections of several of the Ministers to receive the churchyard dues in some of the country districts, the Synod has deemed proper to submit this matter to the consideration of His Honor the Lieutenant Governor and respectfully to request that the several field-cornets of the distant districts may be authorized on making report of each corpse in their ward to levy on behalf of the Church and the Synodical fund (conformably to Article 45 of the Church order issued by the former Commissary General De Mist and the Synodical Resolution of the 3rd November 1824 sanctioned by Government) for the body of each person above the age of 12 years Rds. 3 4 sks. or 5s. 3*d.*, and underneath twelve Rds. 2 4 sks. or 3s. 9*d.*, and that the Fieldcornets

shall at the annual opgaaf deliver over the monies so collected by them to the respective Secretaries of their Districts since the preceding opgaaf, in order to be forwarded with the money to the Treasurer of the Vestry of the Church.

2nd, Respecting the complaints that the Magistrates in general have not complied with the Synodical Resolution of the 16th November 1824. The Synod resolves on this point to write circular letters to all the respective Magistrates with a friendly recommendation to promote the good intentions of the Synod in this respect ; and at the same time respectfully to request His Honor the Lieutenant Governor to support this measure by His Honor's sanction hereof ; and

3rd, Again to make most serious complaints of the still continued and more and more increasing violation of the Christian Sabbath. In this regard the Synod has thought it necessary to address His Honor the Lieutenant Governor as has been already done by a separate letter dated the 9th November 1826 ; and as they have also conceived it their duty to be to recommend to their congregations the faithful keeping of the Sabbath in particular in a printed pastoral admonition dated the 15th November 1826.

The Synod having thereupon proceeded to Article 81 of the points of deliberation under the head of communication and proposition regarding Article 29 &c. concerning the further promotion of Religious Instruction, they have considered it advisable in order to facilitate religious instruction to cause to be printed a book under the title of Abridged Catechism to be used in the schools and at catechisations, saving however to the respective clergymen the liberty to make use of other approved religious books of their own composition on such occasions and to confirm their pupils thereon.

Further with respect to Article 9 proposal for uniformity in keeping of fixed Christian Holidays and what is attached thereto. As such is not sufficiently observed in all the Churches, and as the Synod nevertheless consider it to be a most desirable matter that all the Ministers of the Reformed Churches should especially in this point ; resolved to recommend the observance of such proposal as far as possible to all Clergymen as a pressing request.

With regard to the proposal Article 10, Respecting the

widows' fund, the Synod has found good to frame further regulations.

Concerning Article 11, proposals respecting Limits &c., Resolved to communicate on this subject with the Landdrosts and Presidents of the Presbyteries when this matter should be brought before their respective assemblies and thereupon before the Synod.

Regarding the proposition how to act with the effects left by those who have been supported in their lifetime from the poor's box, the Scriba has been directed by the Synod to inform the several churches by circular letters of the existence of a political ordinance on that subject dated the 27th June 1769.

Respecting propositions 1 and 2, For the establishment of a tariff of the expenses of the Synodical and Presbyterial assemblies, the Synod has prescribed what is contained in Document No. 9A, conformably to the Resolution of the 18th November 1824.

Concerning Articles 14 and 15, Propositions respecting the Moderators at the opening and closing of the Synod, Resolved as is contained in Document No. 10.

Propositions for the taking charge of and keeping the Synodical books and papers. Resolved that this shall be observed by the Actuarius Synodi conformably to Document No. 11.

Propositions for the creation of new Synodical situations, viz.

1st, The appointment of a very Reverend Actuarius and Archivarius Synodi &c., upon which the Synod resolved to appoint the Reverend Mr. Berrangé to this situation subject to the regulations prescribed in Document No. 12.

2nd, The appointment of a permanent Questor of the Synod's fund, which was provisionally accepted by the Reverend Mr. A. Faure, subject to the regulations contained in the Documents No. 9 b and c.

3rd, The appointment of Rationarii to which the Reverend Messrs. Von Manger, Herold, Thom, and Murray have been elected, as appears by Document 13, and who have reported to the Synod their proceedings.

With regard to Article 18, Proposal for a provision on behalf of congregations having no pastor &c.,

The Synod resolved that for all vacant congregations a clergyman shall be appointed under the title of Consulens, who

shall be the Minister of the nearest congregation, provided he be under the jurisdiction of the same Landdrost, or should it regard the town, one of the Clergymen thereto be chosen by the Town Ministry, all subject to the further regulations contained in Document No. 14.

Some propositions regarding means for conserving &c. were withdrawn by the Town Ministry.

The subject of the Theological Free School having been recommended anew to the consideration of the Synod, it has been resolved to transmit to the Actuarius of each Presbytery a copy of the plan delivered in to the Synod held in 1824, in order that they may seriously take to heart this desirable and important subject, and having completed their plan lay the same before the next Synod, so that this object so necessary for the effectual promotion of religious knowledge may be carried into effect. The Synod after having treated on those points and given their advice and opinions on some articles to the Fourth Presbytery at their request, they proceeded to deliberate on the corollary points, among which

No. 1. It having been submitted to the consideration of the Synod, the assembling by rotation of a contracted Synod, the Synod in this regard resolved to recommend this proposition to the consideration of the respective Presbyteries for their report previous to the next assembly by the Synod, by which it will appear whether it be necessary to propose to Government any alterations in the established Laws regarding this point.

No. 2. With respect to the revision of the Church Order of the Commissary General De Mist, the Synod resolved, as it has not as yet appeared that any inconvenience exists, to render the measure necessary, to set this proposition aside for the present ; but as it has principally arisen from the 48th article of said order, the Town Ministry shall be obliged, five months previous to the meeting of the Synod, to remind the respective Vestries of the approaching Synod, so that timely application may be made to Government for the appointment of a political commissioner in order conformably to said Article to frame, in concert with the Political Commissioner, the points for deliberation so as to be submitted for the approval of the Governor for the time being.



Finally the Synod resolved that on the Sunday falling on the 6th April, or the next Sunday succeeding, being the day on which in the year 1652 this Colony was established and thereby Christianity introduced into this southern corner of the world, that holyday shall be recommended to the religious attention of the congregations of all the respective churches.

All the aforesaid documents after having received the sanction of Government shall be printed and published as well as the forms which have been observed on the opening and closing of the Synod.

The Synod has also recommended to the Ministers in order to provide in the present dearth of Instruction to encourage young persons to allow themselves to be brought up as Catechists and Missionaries, and to contribute hereto as much as possible, till such time as the Theological Free School shall be established. We have &c.

(Signed) M. BORCHERDS,  
T. I. HEROLD.

A true translation.

(Signed) HENRY MURPHY, Sworn Translator.

[Original.]

*Letter from MR. I. STROMBOM to EARL BATHURST.*

NO. 65 OLD BROAD STREET, 16th November 1826.

MY LORD,—Allow me to bring again under your Lordship's notice the several former letters and documents I have had the honor of addressing your Lordship, and in particular my respects under the 6th April last, and while I fear owing to the late financial and commercial depression His Majesty's Government may have been withheld from acting with its usual liberality in regard to compensation for the different essential services rendered during the years 1795 to 1802, though even at the risk of my life and property, besides the severe losses I suffered by His Majesty's Government *not* taking up the Paper Currency issued by General Sir James Craig, and even setting aside the great pecuniary losses I afterwards suffered individually in realizing my property or its proceeds, between the years 1812 and 1815, owing to the enormous

depreciation of His Majesty's Government Paper Currency at the Cape of Good Hope, occasioned by an issue of about a million of Rixdollars.

I humbly conceive myself in honor and justice at least entitled to compensation for the specific loss I incurred in the duties on 22,000 gallons of wine and spirits shipped per the ship *Eliza* in January 1796, both by special desire and upon the solemn assurances of Vice Admiral Sir George Keith Elphinstone, as having represented in my former statement, which occasioned to me a positive loss of upwards £3,500, but if the reduction of duties since made in 1813 of 5s. 2d. per gallon had been then made would have amounted to about £5,700, and which His Majesty's Government owing to His Majesty's then Ministers Mr. Pitt and Mr. Dundas not having had it in their power to alter the duties without an act of Parliament, then conceived for general matters impolitic, having been deferred; and owing to several years having expired before the final issue and net proceeds of the *Eliza's* cargo being known to me so as to have been enabled of making any representation and claim on His Majesty's Government, and shortly after totally precluded by the communication with Great Britain having been cut off by renewed hostilities and myself prevented from proceeding to England by the several causes not under my control, as partly represented in my address to your Lordship under the 11th March 1825, but as His Majesty's Government not only had the advantage of the duties finally deemed excessive, and reduced by act of Parliament in 1813, but also the indirect benefit in more than tenfold ratio by the conciliation of the inhabitants of the Cape &c., for which purpose the shipment was originally requested by His Majesty's Government representative Vice Admiral Sir George Keith Elphinstone, surely the least I humbly conceive I in honor and equity could expect would be the original amount, while had it been paid at the time 1796 about 30 years Interest would have given me nearly treble the sum besides the loss on the ship *Good Hope* !

Next I humbly conceive that whatever arrangements His Majesty's Government may think proper ultimately to make regarding the Cape Currency in general, by the depreciation of which I have thro' the peculiar situation I was placed suffered

immense losses individually, and having left the Colony since January 1812, *not* had it in my power of deriving any of those advantages by the progressive rise of Colonial Property as well as by the trade at the Cape as those who resided in the Colony may have done, but only having principally had to obtain remittance for the proceeds of my property disposed for Cape Currency partly by short, but mostly by Bonds and Bills at long dates in 1810, 11, before any rise occasioned by the issue of the last million took place, whereby I suffered a loss of nearly a third of its proceeds to a very large amount and consequently consider myself even individually entitled to compensation far above any other, however, while leaving that for a general consideration, surely in honor and justice I conceive the special losses I have suffered both as Guardian of and in conjunction with my children on a capital of Rixdollars 36,000 which was placed as a mortgage 30th June 1806 while the Rixdollars were in equal value at 4/- as the Bank Notes of England were 20/-, and though a temporary difference in the Exchange then existed of about 20 per cent equally so as Guineas were in England in real above its nominal value, and while placing the utmost confidence in the honor and justice that His Majesty's Government for whose service I had on every occasion both risked my life and property, and for whom I had ever bore the highest reverence, both according to *Capitulation* and its Guarantee, as well as thro' the *solemnly pledged property for its security* that the Paper Currency should be kept up to its *original* value and therefore never could have suspected neither its temporary depreciation, much less, but that it would have been repaid by His Majesty's Government at its original value of 4/- sterling per rixdollar, and as neither myself as guardian nor the children being infants, having had it in our power of withdrawing the Capital till after and between the years 1820 and 1826, and even still about Rixdollars 18,000 being left in the Colony to be remitted.

I humbly trust the difference of the interest from at least January 1812 when I left the Colony from its real value of about £420 per annum to what at an average on the last 14 years of about £170 making about £3,500, and the difference on the capital at 4/- from £7,200 its original, to £2,700 at the reduced value of 1/6 per rixdollar, making £4,500 or together

£8,000 will be paid to me and as guardian for my children, but should the question regarding the Cape Currency have to undergo any further consideration or Parliamentary inquiry, and the question of compensation thereby be still further procrastinated, as I humbly hope both the Right Honourable the Lords of His Majesty's Treasury and your Lordship will see the hardships I have suffered and still continue by the remittance I have even lately received being only about a third of its original value, I humbly beg to solicit through your Lordship's kind intercession the Lords of His Majesty's Treasury may be induced at least to grant to me the amount of the duties I humbly conceive overpaid on the *Eliza's* Cargo in 1796, and such part on the loss of the Currency as their Lordships' and His Majesty's Government in its wisdom, justice, and generosity may provisionally kindly deem proper.

Permit me also my Lord to annex a short recapitulation of the different services which I have rendered His Majesty's Government and the losses I have suffered thereby, besides considerable indirect ones owing to my attachment to His Majesty's Government, at a period when Great Britain was struggling both against Foreign foes and concealed anti-loyal principles amongst its own subjects, and therefore humbly conceive that having contributed my utmost to promote His Majesty's service, though unpaid and not having had the honor of being in His Majesty's direct service I am the more deserving the protection and consideration of His Majesty's Government, and should humbly hope even an additional claim for its generosity, for having done it without pay or self interest, and deferred every call for remuneration as long as any part of my own fortune remained, and as several circumstances might probably be also verbally explained, permit me my Lord to request the favour of your Lordship's honoring me with an audience at such early period and place as your Lordship's convenience best would admit. I have &c.

(Signed) I. STROMBOM.

[Enclosure in the above.]

A short abstract Recapitulation of the direct and indirect services rendered by Mr. Strombom to His Majesty's Govern-



ment while residing at the Cape of Good Hope, and the losses thereby suffered by him.

Mr. Strombom after about ten years residence at the Cape of Good Hope as one of the principal merchants and married to an English lady and in 1795 while not only possessed of a handsome fortune but also in the confidence and esteem of the Governor and principal inhabitants and intending to have gone shortly with his family to reside in England, when the arrival of His Majesty's Fleet under Admiral Sir George Keith Elphinstone (who had also been introduced to Mr. Strombom by some friends in England) about June 1795 in Simon's Bay with proposals of taking the Cape under protection of His Britannic Majesty in the name of the Prince of Orange, which (while the greatest party of the Colonists were anti-Orangemen) was refused by the Dutch Governor, &c. but during a negociation of about 14 days or 3 weeks, Mr. Strombom (besides useful information) notwithstanding orders had been given that all cattle should be sent in the interior, not only through his influence with the Governor and the principal inhabitants got His Majesty's ships and vessels supplied with fresh provisions but on several and two distinct occasions while he was permitted by the Dutch Governor and entrusted with verbal messages to the British Commander Sir G. Elphinstone not only his life was endangered by some of the Militia men but in his absence his house and private property in Cape Town was threatened to be demolished.

After the surrender of the Cape (15th September 1795) Mr. Strombom through his capital, credit and connections &c. and indefatigable exertions not only procured His Majesty's Squadron victualled at lower prices by one half than ever done before, but with so much expedition that Admiral Sir G. K. Elphinstone was enabled sooner than otherwise could have been done, to proceed with the greatest part of the Squadron and Troops for the capture of the Dutch Spice Islands.

At the strong representation and request of Vice Admiral Sir George Keith Elphinstone (who also held a separate civil commission from His Majesty's Secretary of State) to promote the attachment of the inhabitants by showing them beneficial exports for their Colonial produce under the most solemn assurances that the duties on the wines and spirits would be reduced

in England considerably like His Majesty's West India Colonies Mr. Strombom sent a ship the *Eliza* with a cargo of about 22,000 gallons of wine and spirits, but on which though every willingness was testified by His Majesty's then Ministers Mr. Pitt and Mr. Dundas, it not having been found possible to reduce the duties without an Act of Parliament, and Mr. Strombom suffered a loss of upwards £3,500.

In a like manner on a ship called the *Good Hope* sent by persuasion of the Acting Governor Sir James Craig to Mozambique £4000.

When the Cape was going to be attacked by a Dutch and French force Mr. Strombom rendered every assistance in his power for its defence, and in particular gave his horses and carriage and several slaves for the use of the General commanding.

About the years 1797 and 8 when the Acting Governor Sir James Craig could not raise sufficient money for His Majesty's service on Government Bills in England but at a considerable discount, and having resolved to get about 330,000 rixdollars struck under the guarantee of the Colonial land &c. and the public faith that they should be redeemed at the original value of 4/- Mr. Strombom while putting the utmost confidence therein was the means by accepting it in payment &c., no opposition being made by the inhabitants of its circulation, besides many other minor and indirect services amongst which the protection of British property during the possession of the Cape by the Dutch Government in 1803-5 which together with his having broken the monopolies on the first surrender in 1795 and his known strong attachment to His Majesty's Government contributed greatly to instigate intrigues and concealed enemies who took every possible opportunity in the latter years of injuring Mr. Strombom as much as possible, while he never received any compensation nor ever made any claim on His Majesty's Government till not only his own fortune was lost but even the settlement on his children reduced two thirds of its value.

N.B.—Mr. Strombom further begs leave to observe as it may be supposed that he derived (as otherwise usually done) a great benefit on victualling His Majesty's Squadron in 1795, Mr. Strombom most solemnly declares that the extra expence

he was put to both in procuring supplies from the Country and expedite them, after having been obliged greatly to neglect his commercial concerns probably to the loss of many thousand pounds, and acted more in honor than to his own pecuniary advantage and charged so low prices that it barely paid him ; while it naturally might be supposed that in a Colony like the Cape after about 3 months blockade and consumption by several thousand militia from the country, and everything remained in confusion, at the influx, on the surrender, of about 8 to 10,000 men that provisions would have been doubled and charged accordingly in any other hands, while the prospects he had of being partly remunerated by a long continuance of the victualling contract by which he expected to clear without any prejudice to His Majesty's Government from £6 to 10,000 a year, but of which he was deprived after about 5 months by intrigues and false representations to and erroneous conception by Vice Admiral Sir George K. Elphinstone while at sea, about the badness of the wines &c., but which on arrival at Madras on a regular survey was found to be incorrect, and only 5 pipes out of about 300 supplied condemned, which was sold at Public Sale above the Contract prices, and no blame or charge whatever towards Mr. Strombom, which though Sir G. Elphinstone on his return to the Cape in the most friendly manner acknowledged and expressed *his regret* to Mr. Strombom, but the Contract then being passed in other hands it could not again be altered.

*Positive Losses suffered by Mr. Strombom.*

On the ship <i>Eliza</i> sent to England at the special request and positive assurances of Vice Admiral Sir G. K. Elphinstone that the duties should be reduced . . . . .	£3,500
On the ship <i>Good Hope</i> sent on special request by the Acting Governor Sir James Craig to Mozambique . . . . .	4,000
On the amount of about £163,000 of British and Indian manufactures imported as Agent for other Cape Merchants during 1798 and 1802 for which received in repayment principally Notes and Bonds at long dates in Cape Currency, and the amount of 330,000 rixdollars issued by General Sir James Craig in 1797 not having been taken up by Government on the surrender of the Colony 1803 and its consequent rise of the Exchange occasioned a loss to Mr. Strombom of upwards . . . . .	20,000

On the Exchange of £10,000 remitted and paid to the creditors of Hudson and Lowrie on a deficiency of about 17,000 between 1808 and 11 about . . . . .	£3,000
On Mr. Strombom's Colonial Property disposed of in 1808 and 11 before the rise took place by the issue of one million rixdollars coming into circulation on the amount of about 150,000 rixdollars amongst which were 37 prime slaves then sold at from 600 to 1200 rixdollars or average about 800, while the same quality of slaves sold between 1812 and 1815, owing to the depreciation of the Currency to about 1200 and 3000 on average 2000 rixdollars and calculated on the proceeds being remitted to England as above a loss of at least . . . . .	£10,000
On rixdollars 36,000, settled on mortgage in June 1806 on Mr. Strombom's children then £7,200 and about 14 years interest to Mr. Strombom as Guardian for their maintenance and education . . . . .	8,000
Total Positive Losses about . . . . .	£48,500

N.B. Besides many other minor and Colonial and indirect losses suffered by Mr. Strombom thro' a faction owing to his strong attachment to His Majesty's Government, as also if the calculative losses of commercial profits which he otherwise would have reaped on his capital had the currency been kept up to its value, he firmly believes would have realized him double the amount.

No. 65, OLD BROAD STREET,  
16th November 1826.

[Original.]

*Letter from* LORD CHARLES SOMERSET *to* R. W. HAY, ESQRE.

48 LOWER GROSVENOR STREET,  
LONDON, 17th November 1826.

SIR,—I have the honor to acknowledge the receipt of your letter of the 11th inst., communicating to me Earl Bathurst's desire to be informed if it is my intention to make any representation relative to the liability of the Collector of Customs at the Cape of Good Hope to make good the amount of deficiency occasioned in the receipts of his office by the peculation of a Clerk (W. J. Birkwood). I take the liberty therefore of stating that I have the strongest grounds for considering



Mr. Blair (the Collector) to be a Gentleman of the most rigid honor and integrity, and that the deficit which has been discovered occurred solely from the dishonesty of a man who had the art to obtain Mr. Blair's fullest confidence, which he basely betrayed. I have &c.

(Signed) CHARLES HENRY SOMERSET.

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[Office Copy.]

*Letter from R. W. HAY, ESQRE., to JOHN BARROW, ESQRE.*

DOWNING STREET, 17 November 1826.

SIR,—With reference to my letter of the 13th Instant, I am directed by Earl Bathurst to transmit to you enclosed, for the information of the Lords Commissioners of the Admiralty, a Copy of a letter which has been received from His Majesty's Commissioners of Enquiry at the Cape of Good Hope, in which they state that Captain Polkinghorne of His Majesty's Ship *Sparrowhawk* had consented to convey them in that Vessel to Mauritius. I am &c.

(Signed) R. W. HAY.

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[Office Copy.]

*Letter from R. W. HAY, ESQRE., to the COMMISSIONERS OF THE NAVY.*

DOWNING STREET, 18th November 1826.

GENTLEMEN,—I have laid before Earl Bathurst your letter of the 15th Instant respecting the conveyance to the Cape of Good Hope in the *Barbara* of five Tons of articles consigned to Mr. Adcock of Graham's Town, and I am directed to acquaint you in reply that his Lordship has no means of offering any opinion upon the propriety of paying for the freight of those Articles, as the question appears to his Lordship to turn entirely upon the fact whether the Goods were or were not landed in conformity with the agreement. I am &c.

(Signed) R. W. HAY.

[Office Copy.]

*Letter from R. W. HAY, ESQRE., to T. P. COURTENAY, ESQRE.*

DOWNING STREET, 18 November 1826.

SIR,—I am directed by Earl Bathurst to transmit to you enclosed a copy of a letter which has been received from the Reverend Mr. McClelland the Clergyman of Port Elizabeth, Cape of Good Hope, in which he represents the serious injury which is likely to arise to the Established Church of England, from the inability of its members who are resident in the Colony to obtain the benefits of Confirmation; and he prays that the Successor of the late Lord Bishop of Calcutta may be requested to touch at the Cape of Good Hope, on his passage out, for the purpose of administering the rite of Confirmation to such persons in the Colony who may be found qualified; and I am to request that you will submit this letter for the consideration of the Board of Commissioners for the affairs of India. I am &c.

(Signed) R. W. HAY.

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[Original.]*Letter from MAJOR-GENERAL BOURKE to EARL BATHURST.*

GOVERNMENT HOUSE, CAPE TOWN, November 21st 1826.

MY LORD,—I have the honor to enclose the Quarterly Return of the 30th September last of the Salaries of the Civil Servants on the Establishment of this Government and of items of fixed contingent expenditure which, according to the Instructions of the Lords Commissioners of the Treasury, require your Lordship's sanction to be conveyed to the Colonial Auditors. I am happy to state that there is no additional expense whatever to be reported, but in consequence of the changes made by the late reductions, your Lordship's sanction is requested to the several items now laid before you.

Referring to your Lordship's dispatch of the 8th March last addressed to Lord C. Somerset, and to that of the 14th July, No. 286, desiring further information as to the Salaries of the

Superintendent of Government Gardens, the Government Gardener, and the Overseer at Camp's Bay, I have to acquaint your Lordship that the increase of the wages of Superintendent from £54 to £72 per annum appears expedient, in consideration of the ability and diligence of the person holding the situation, whom it may not be possible to retain at the lower rate, nor to supply his place if he should vacate it, with equal advantage. The augmentation to the gardener I believe may be avoided. The Overseer at Camp's Bay was appointed upon that Residence being occupied by His Excellency Lord Charles Somerset.

I beg to request your Lordship's approval of the augmentation to the Superintendent's wages and instructions as to the disposal of the Gardener and Overseer. The latter is still retained on the Establishment, but the salaries of all three were reduced to the original rate immediately on receipt of your Lordship's despatch of the 8th March last. I have &c.

(Signed)      RICHD. BOURKE.

[Enclosure in the above.]

The items are small increases of salary to two clerks in the Wharf Office and to the Superintendent of the Printing Department; the payment of small wages to four prize negroes employed in the Printing Office whose terms of apprenticeship had expired; and the cost of lighting the Lighthouse at Green Point.

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[Original.]

*Letter from* LORD CHARLES SOMERSET *to* R. W. HAY, ESQRE.

48 LOWER GROSVENOR STREET, LONDON, 21st November 1826.

SIR,—In reply to your letter of the 13th instant, conveying to me Earl Bathurst's desire that I should state the grounds upon which I included a charge of 1000 Rds. (£75 Sterling) per annum as a pension to Mr. Hart, in the comparative Statement (marked 3 of the Documents accompanying my Despatch to His Lordship of the 31st March 1825) of the Increase and Decrease of Expence that would arise from the Establishment.

of the new District of Somerset, I have the honor to state that I considered it an act of imperative justice to make that slender provision for a man who had laboured for eleven years so arduously and so honestly in a Situation of enormous pecuniary responsibility, more particularly as he was removed from his Situation not from any misconduct of his own, but because it became a matter of policy on the part of Government to abolish the Establishment over which he presided with so much ability and integrity.

The statement (No. 3) will shew that the measure then adopted caused a considerable saving to Government.

I have &c.

(Signed) CHARLES HENRY SOMERSET.

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[Original.]

*Letter from LORD CHARLES SOMERSET to R. W. HAY, ESQRE.*

48 LOWER GROSVENOR STREET, LONDON, 21st November 1826.

SIR,—I have the honor to transmit to you a Letter from D. J. van Ryneveld, Esq., the eldest Son of the late Chief Justice at the Cape of Good Hope, praying that four fifths of the Pension enjoyed by his Mother (recently deceased) may be continued to his four Sisters, i.e. £100 per annum each for their respective Lives.

The acknowledged Services of the late Chief Justice Van Ryneveld, the respectability and merit of the Applicant as a Public Servant, and the indigent circumstances in which I have reason to believe his Sisters, in whose behalf he pleads, are left, induce me to recommend Mr. Van Ryneveld's prayer to Earl Bathurst's favorable consideration. I have &c.

(Signed) CHARLES HENRY SOMERSET.

[Mr. Van Ryneveld's letter above referred to is missing.—  
G. M. T.]

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[Office Copy.]

*Letter from R. W. HAY, ESQRE., to I. STROMBOM, ESQRE.*

DOWNING STREET, 21st November 1826.

SIR,—I am directed by Earl Bathurst to acknowledge the receipt of your letter of the 16th Instant, and I am to acquaint you in reply that his Lordship having already, in the fullest manner, submitted to the consideration of the Lords Commissioners of His Majesty's Treasury your claim to indemnification for losses which you allege yourself to have sustained, it is not in His Lordship's power to take any further steps in regard to your case. I am &c.

(Signed) R. W. HAY.

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[Copy.]

Government Advertisement.

His Honor the Lieutenant-Governor has been pleased to authorise a BORDER FAIR to be held at Torenberg, in the Field-Cornetcy of the Lower Seacow River, in the District of Graaff-Reinet, under the Provisions of the Ordinance No. 23, of the 11th September last.

This Fair will commence on Monday the 15th of January next, and end on Saturday the 20th of that Month; and will be under the superintendence of the Landdrost of Graaff-Reinet.

Cape of Good Hope, 22nd November, 1826.

By Command of His Honor the Lieutenant-Governor,

(Signed) R. PLASKET, Secretary to Government.

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[Office Copy.]

*Letter from R. W. HAY, ESQRE., to LORD CHARLES SOMERSET.*

DOWNING STREET, 23rd November 1826.

MY LORD,—I have had the honor to receive and to lay before Earl Bathurst your Lordship's letter of the 21st instant covering a letter from Mr. D. J. van Ryneveld, the eldest Son of the late Chief Justice at the Cape of Good Hope, in which he prays that the Pension which was enjoyed by his late Mother may be continued to his four Sisters ; and I am directed to acquaint you in reply that his Lordship regrets that it is not in his power to comply with the prayer of Mr. Ryneveld's application. I have &c.

(Signed) R. W. HAY.

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[Office Copy.]

*Letter from EARL BATHURST to MAJOR-GENERAL BOURKE.*

DOWNING STREET, LONDON, 24 November 1826.

SIR,—I transmit to you enclosed a copy of a communication which has been received from the Board of Treasury, together with a Report from the Commissioners of Colonial Audit, on the subject of the Bills drawn by Governor Lord Charles Somerset in 1823 and 1824 for the relief of the inhabitants of the Colony ; and I have to desire that you will, in compliance with the wish expressed by the Lords Commissioners of the Treasury, give directions for preparing and transmitting to me the several Accounts and Statements which are more particularly specified in the Report of the Commissioners of Audit. I am &c.

(Signed) BATHURST.

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[Original.]

*Letter from J. T. BIGGE, ESQRE., to EARL BATHURST.*

CAPE TOWN, 24th November 1826.

MY LORD,—I take the earliest opportunity of informing your Lordship that on the 21st Inst. I received from Major General Bourke a copy of a Despatch numbered 282, dated on the 9th of last July, which he had just received from your Lordship upon the subject of the tax upon slaves recommended by Major Colebrooke and myself, and enclosing a communication which had been received from Lord Charles Somerset upon that subject, in the first of which after expressing surprise and regret that we had omitted to consult the Colonial Government upon a question of so much importance Your Lordship was pleased to declare the necessity of inviting us in the event of our still being in the Colony to reconsider the whole subject in concurrence with the Members of His Majesty's Council, in order to enable the Lieutenant Governor to report to your Lordship on the principle of the Slave tax, and upon the exceptions that it might be expedient to make to it.

In the absence of my Colleague Major Colebrooke the painful task devolves upon me of expressing our deep mortification and regret that if any part of our conduct in the execution of the duties of our Commission should have appeared to your Lordship to call for disapprobation or censure, the communication of your sentiments should not have been made to ourselves, and that upon a point of duty upon which we beg to observe that our instructions are silent, we should have received for the first time an official intimation of your Lordship's pleasure through a Channel so unexpected and we would humbly add so inconsistent with the nature of the public relation in which we stand towards the Governor of this Colony.

In support of this observation I would respectfully beg leave to refer your Lordship to our general instructions, and although I admit that in a subsequent letter of your Lordship of the same nature and dated 25th June 1823 enclosing an address that had been forwarded to you on the part of the principal Settlers in the District of Albany, we were instructed "to communicate unreservedly with the Governor on that and

other occasions of similar investigations," yet I am able to assert with some confidence that neither in the original instructions nor in the spirit and understanding in which they were framed, nor yet in any subsequent communication from your Lordship, has it ever been provided or even recommended that upon questions of mere prospective policy we should communicate with the Governors of the different Colonies, or consider their opinions as indispensable accompaniments to our own. Upon all occasions in which the past conduct or the policy of the Governor had been impugned (as was the case in that which formed the subject of your Lordship's 2nd instruction) it became an act of manifest justice towards the Governor to inform him of the charges that had been urged against him and to give him an opportunity of making explanations, but I must beg leave to repeat that whatever disposition we might have felt on some occasions to have entered into discussions with the Governor upon the policy of prospective measures, yet we have never considered that such a course was enjoined by our instructions nor had we reason to believe that it was expected by your Lordship. The necessity however of making such a reference to Lord Charles Somerset upon the subject of a tax upon slaves never occurred to us, inasmuch as we found that the principle of the measure had been sanctioned by the Acting Governor Sir Rufane Donkin in the year 1821, and by Lord Charles Somerset himself in the year 1823, when upon a recommendation of the Landdrost approved by the Heemraden of the District of Worcester that a tax upon all Slaves during the 3 following years would in his opinion be found the least oppressive means of providing for the public expences, a proclamation was issued on the authorizing the imposition of a tax of two rixdollars (three shillings sterling) on every male and of one rixdollar (or 1s. 6d.) on every female slave, in addition to the ordinary taxes.

It moreover did not appear that the circumstances under which this new impost was sanctioned, arising from the distress that was said to have been then recently occasioned in the District of Worcester by the heavy flood of the year 1822 furnished any objection in the mind of the Governor to the adoption of the measure, although I observe that in his remarks upon our report the effects which he attributes to the same



calamity are felt at this remote period to constitute grounds for its postponement.

We therefore not only had reason to infer from the successive acts of the two Governors that no objection was entertained by them to the principle of a Slave tax in the Colony, but we since have had the additional satisfaction to learn from the correspondence that took place between Lord Charles Somerset and ourselves about the period of his last departure, and which was transmitted by us to Mr. Hay on the 24th October 1826, that up to that period his Lordship continued to be of opinion "that the tax would certainly apply well to the great Proprietors of Slaves as with them it would be a fair property tax, but that it would fall heavily upon those Colonists who had only one or two slaves."

Although I understand that Lord Charles Somerset took with him to England copies of the correspondence from which the above passage is extracted I can hardly suppose that they had been submitted to your Lordship at the date of your Despatch to Major General Bourke. The original letters that passed between us were written and received under a mutual pledge of confidence and secrecy that was limited to the Colony only, but was not understood to prevent either of us from making any communication of them to your Lordship.

The correspondence was continued under the same understanding with Major General Bourke, and as it must now be in your Lordship's possession, I venture to assure myself that your Lordship will ere this have been convinced that altho' my colleague and myself have not considered ourselves authorized by our Instructions to enter into discussions with the local Government upon subjects of prospective alteration or improvement before we submitted them to your Lordship, yet we have not been deterred from that course by any captious objection to avail ourselves of the experience or information that it might afford us, and that as the event has shewn we have manifested the utmost readiness to accede to any wish that was expressed by the Governor to enter upon those subjects, and to correct or modify our own views, whenever the interests of the Colony appeared to us to require it.

I beg leave to add that upon receiving a copy of your Lordship's despatch of the 9th July from Major General Bourke I

lost no time in assuring His Honor of my readiness to assist in an early investigation of the points which it was your Lordship's wish that we should reconsider, and I have consented to produce such evidence as we have collected upon that subject.

It would certainly have been desirable to have laid before the Council the views that were entertained by Governor Lord Charles Somerset upon the policy of the Slave tax before he left the Colony in the month of February of this year, and to have compared them with those which he submitted to your Lordship in the month of June, but as I do not feel certain that he would consent to exempt the correspondence from the pledge of secrecy that was understood to accompany it in the Colony, and I shall therefore as far as I am concerned decline to produce it, the Council will thus be deprived of an opportunity of deciding to which of his Lordship's opinions the greatest weight is to be ascribed.

As I perceived by the communication of Major General Bourke that he had not been furnished with the letter that contained the grounds of our first recommendation of the tax on slaves to your Lordship, although he had been briefly put in possession of them by us in the course of our correspondence, I thought that it was only just to my Colleague and myself to confirm our explanation by transmitting to the General a copy of our Despatch to your Lordship dated 6th October 1825 and by requesting him to lay it before the Council.

It was however perfectly understood by General Bourke that the principal object we had in view by addressing that letter to your Lordship was to prevent the introduction of a clause into the Ordinance for ameliorating the condition of slaves, that might hereafter preclude the Government from having recourse to the only subject of taxation from which we conceived the existing deficiency in the Revenues of the Colony might be supplied. I have &c.

(Signed) JOHN THOMAS BIGGE.

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[Copy.]

*Extracts from Proceedings of the House of Commons.*VENERIS, 24<sup>o</sup> die Novembris 1826.

Resolved, That an humble Address be presented to His Majesty that He will be graciously pleased to give directions that there be laid before this House, Copy of the Memorial of Mr. L. Cooke to Lord Charles Somerset respecting the State of the Prize Slaves at the Cape and the Report of the Commissioners of Inquiry into the truth of the Statements and Affidavits contained in that Memorial relative to the manner in which the Collector Mr. Blair has been in the habit of disposing of the Prize Slaves.

Resolved, that the said Address be presented to His Majesty by such Members of this House as are of His Majesty's Most Honorable Privy Council.

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[Office Copy.]

*Letter from* EARL BATHURST *to* MAJOR GENERAL BOURKE.

DOWNING STREET, LONDON, 25 November 1826.

SIR,—With reference to my despatch of the 20th of August last, in which I directed that measures should be taken for the employment as Free Labourers of such Individuals of the Native Tribes called Mantatees and Goes as might be found capacitated for field labour, I have to acquaint you that I have considered it advisable to take advantage of an opportunity which has offered for conveying from the Island of Mombas to the Cape of Good Hope, a small body of Free blacks, not exceeding 100 in number, under the idea that they may be advantageously employed in the Colony; and as the necessary directions have been given by the Admiralty for the conveyance of these Individuals, I have to desire that you will make arrangements for their reception in the Colony, and for their being employed under such conditions as may be deemed consistent with the free disposal of themselves and of their labour. I am &c.

(Signed) BATHURST.

## [Office Copy.]

*Letter from R. W. HAY, ESQRE., to MAJOR GENERAL BOURKE.*

DOWNING STREET, LONDON, 27 November 1826.

MY DEAR SIR,—With reference to that part of your private letter under date of the 7th of August last, in which you state that you had authorized Ships to clear inwards and outwards at the Ports Elizabeth and Frances, I beg leave to acquaint you that having taken an opportunity of enquiring whether there presented itself no legal objection to that measure, I learn generally that if these Ports are within the limits of the Colony as defined by the Governor's Commission, no objection might be made by the East India Company to the erecting those places into ports of entry. As it is held, however, that ships cannot lawfully clear inwards and outwards at any port where there is not a Custom house Officer, and that Custom house Officers can only be appointed by the Commissioners of Customs or with their concurrence—6 Geo. 4, C. 106, Sec. 8—we do not, therefore, clearly understand the purport of your communication when you say : finding it could be legally done *you* had authorised &c.

But as you will no doubt make an official Report on this subject, it will be time enough, I hope, to consider the legal merits of the question when we receive your Ordinance. In the mean time I have thought it desirable to let you know that we do not properly understand the subject. Yours &c.

(Signed) R. W. HAY.

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[Original.]

*Letter from MR. BENJAMIN WILMOT to R. W. HAY, ESQRE.*

NO. 1 ROSOMANS BUILDINGS,  
ISLINGTON GREEN, November 27th 1826.

SIR,—I beg leave to acknowledge the receipt of your written communication dated the 17th June last in answer to my Memorial to Earl Bathurst in April of the preceding year expressive of his Lordship's full satisfaction that my Claims



against the Colonial Government are entirely without foundation.

With painful anxiety I perceived that the leading points of my case are assumed to be the very reverse of the facts 'tis thus stated "the mode in which you abandoned your Original location will prevent any further grant being assigned to you." In truth I and my Brother never had more than one location which is now in our possession although I am in England, for our Tenant (Mr. Wheeler) rents the whole place of us at the yearly sum of about £3 10 0 and we actually occupied that slip of land upwards of four years, being much longer than the Government Circular stipulated, wholly in expectation of a diagram to that or to some other land.

No Compensation has been claimed of the Government by me, for any breach of faith of a private nature on the part of the "Original Conductor," that circumstance was stated merely to shew that Willson's Contract with me and my Brother being at an end, we were at liberty to make any other arrangement we thought proper and being anxious to obtain some tangible evidence or recognition from the Government previous to incurring considerable expense and appropriating our Capital about the cultivation of lands and in erecting buildings which might afterwards be wrested from us under the pretext that we had no document to produce to substantiate our rights therefore we refused to proceed to the place of Settlement unless we had a Guarantee from the Government securing to us the benefits for which we Emigrated, such refusal was considered as a refractory proceeding and Captain Evatt the Government authorised and acknowledged Agent at Port Elizabeth commanded us on peril of enforcement to proceed to the frontier with the Waggon he had appropriated for the transport of ourselves and baggage and upon my expostulating with him he enforced obedience (as he said to the orders of the Government) and at the same time made us the pledge mentioned in my Memorial, he also assured us that Willson should be sent up the Country to answer our legal demands against him viz. for the return of the Cash we had intrusted him with over and above the Deposit to the Government. When I arrived at the Settlement I made my claim against Willson to Captain Trappes and demanded a Summons for

Willson's appearance but which was never granted and he was suffered to proceed to Cape Town when *I was compelled against my will* to continue on my location whereupon I memorialized the Governor General Donkin that Willson might be sent to the new Settlement to meet the claims of ourselves and party which was refused. On Willson's advertising (as required by the Cape laws) his intention to depart the Colony I again memorialized his Excellency General Donkin to withhold his passport for leaving the Colony until the arrival of a Ship from the frontier, that I might personally establish my claims against him, the answer was "that it could not be complied with" by which proceedings I was prevented from recovering any one of my claims upon him, and I conceive that I and my Brother are justly entitled to Grants of land of value, and fit for cultivation.

With deference I submit that no "established precedent" could have existed in the new Settlement then recently wrested from the Savages a place where Courts of Justice were not established until the Proclamation of 1820. Wherefore "the Colonial Government could not have been guided in all proceedings relating to *my location by established precedent* and the practice pursued in regard to other Settlers especially in the matter of taking away my two articulated Servants" without recourse to any Judicial proceedings or making me any remuneration, that I am not the only person who has thus been injured I am well aware and I regret that so grievous a proceeding has been extended to another but I can name many who have not been thus injured, and therefore the practice was not even generally observed. "Engagements of personal Service for a certain time upon fixed conditions the Colonial law will compel the performance of" and Earl Bathurst's Circular vouched for their being supported in Africa. My deed of covenant with my Servants was drawn by a Conveyancer in England for the express purpose and a practising Solicitor saw that it was duly executed and attested it as such.

With regard to the Claim made against me for the first time by your communication of the 17th June last on account of the Commissariat, to which it is stated I never adverted, I humbly intreat your attention to that part of my Memorial which states "If payment of Rations issued before we could

procure sustenance from the land and almost universal famine be insisted upon from us yet upon a statement of account the balance I apprehend will be in my favour," and had I not adverted to the Rations as a possibility of being debited against me I conceive I should only have been censurable for previous to my leaving Albany I procured the Certificates from the Government Agents that there were no claims against me in Albany and upon sight thereof the Landdrost signed my pass to Cape Town when there I procured the like and usual Certificates from all the Public Offices, and after they had laid for inspection at the Colonial Office some days the regular pass to quit the Colony was presented to me, from which it appears reasonable to suppose that there are no claims against me on that or any other account.

Had a rateable distribution been made of the Cattle retained out of the 7,000 head captured from the Caffres I should not have made any claim in respect of my losses by the Caffres, nor should I had the distribution been made according to the priority of date, the number claimed is not half the number left, but the precise number which we were enabled to establish clearly as having lost by those Savages.

I left the Colony in July 1824 for the purpose of establishing my claims where I considered they could only be pursued by me with effect and had "the proper legal authorities been pointed out to me" I certainly should have pursued that course but they never were pointed out to me.

Relative to that part of my Memorial not adverted to by your letter viz. the undue preference made by the Colonial Government in granting to the public functionaries and Military men farms in that part of Albany evidently intended to have been appropriated for the use of the Settlers, and before all the Settlers had been provided with grants of land, I have received recent information from the new Settlement that a report thereon hath been directed to be made officially and therefore I humbly pray that I may be at liberty to peruse such Report and all other reports relative to my Claims against the Government for grants of land and remuneration. I am &c.

(Signed) B. WILMOT.

[Office Copy.]

*Letter from* EARL BATHURST *to* MAJOR GENERAL BOURKE.

DOWNING STREET, LONDON, 28 November 1826.

SIR,—I have the honor to acknowledge the receipt of your dispatch of the 4th of August last No. 52 in which you recommend the appointment of Church Clerks and Schoolmasters for various districts of your Government.

Under the circumstances which you have represented I have no objection to authorize the following appointments :

A Church Clerk and Schoolmaster for the District of Tygerberg with a Salary of £30 per annum.

A Church Clerk and Schoolmaster for the village of Worcester with a Salary of £30 per annum and a house.

A Schoolmaster for the Sub-Drostdy of Clanwilliam with a Salary of £65 per annum, if the person selected for the appointment be single ; or £80 if he be married ; with a house ;

And a Schoolmaster for Port Elizabeth, with a Salary to be regulated in the same manner.

And you are at liberty to select competent persons to fill the above situations. I am &c.

(Signed) BATHURST.

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[Original.]

*Letter from* LORD CHARLES SOMERSET *to* R. W. HAY, ESQRE.

28 LOWER GROSVENOR STREET,  
LONDON, 28th November 1826.

SIR,—I have the honor to acknowledge the receipt of your letter conveying to me an Extract from a private and confidential Report from His Majesty's Commissioners of Inquiry at the Cape to Earl Bathurst dated 27th December 1825.

I have the honor in observing upon the Commissioners' Report to state, respecting Government House, that Lord Bathurst's authority for the repairs thereof was communicated to me in a Despatch from His Lordship under date 12th April 1825 and that I never received from His Majesty's Commis-



sioners any application to ascertain if such authority had been received from His Lordship, which I conceive accounts for their "not being aware" of the circumstance.

With regard to the assertion that the repairs included the addition of a Ball Room, I beg to refer to the plan of the House which accompanied my letter of the 9th of October 1824 and the Estimate of the Repairs, by which it will be seen that each Wing of the House contained one Room (with an upper storey), the Room composing the right wing was the Dining Room, but so inconveniently small as to be totally unfitting for the Company which the Governor is called upon to entertain. The Commanding Officer of the Royal Engineers and the Inspector of Government Buildings had reported that it would not be safe to continue to occupy it unless it were shored up in the inside and the Ceiling taken down in order to relieve the Beams of the weight of it, which was accordingly done even whilst my family was still in the occupation of it, and it was found that the whole of the Timbers were in a state of the most utter decay, the end and front walls were also so injured as to render their being taken down and rebuilt a matter of necessity. This being ascertained, it was suggested that a most useful improvement might be made at a very insignificant encrease of expence, by removing the back wall a few feet to the rear and adding the space of one window to the length of the Room. Had I authorized the rebuilding of the front and end walls on the old site and had not availed myself of this opportunity of giving to the Government House, with scarcely any variation in the expence, the accommodation that it so imperatively required, I conceive I should have been most culpable indeed and unmindful of the Interests of the public, and yet this trifling addition of a few feet in width and length to a Room which it was reported by the professional men absolutely necessary to rebuild is in the Report exaggerated into "the addition of a Ball Room," His Lordship will judge with what degree of propriety or correctness! I have omitted to add that the alteration was included in the Estimate sent to His Lordship. No alteration was subsequently made in the first plan, except that of raising the walls 18 inches higher than the old ones had been and of excavating a Cellar under the Room which was recommended by the Builder, in consequence of finding

(when the Floor was taken up) that the joists and planks were totally decayed, whilst those in the corresponding Room of the other wing (under which there was a Cellar) were found quite sound and did not necessitate being replaced, both being built at the same period and of the same materials.

I now come to Camp's Bay, respecting which I have the honor to state : that it offers a commodious landing place to an Enemy and in a Military point of view is regarded as a very assailable point. On this account I have understood that it was purchased by the Dutch Government, it being thought important that it should be in the exclusive possession of Government, and a Battery and Guard House are erected there, the latter having been rendered uninhabitable by the violence of the winter Tempests, a new Guard House has been erected near the Cottage which forms the principal " Enlargement " alluded to. This Building is now turned over to the Royal Engineer Department according to the late Regulations. The small Building at this place has always been attached to the Governor and is only valuable as being conducive to health. Lord Caledon, I have understood, at one period occupied it himself and at other times lent it to his friends for the purpose of Sea Bathing. Lord Howden lent it to the late Mr. Zorn. I had never occupied it previous to 1823, but Lady Charles Somerset's medical attendant having stated that her health required that she should be removed to the sea side and finding that it was impracticable, on account of the distance, to pursue the plan I had attempted the preceding year of removing to Simon's Town, Camp's Bay was recommended for the salubrity of the air, and finding that the Cottage had suffered so much from the previous destructive winter as to render it not habitable, I directed the Inspector of Buildings to survey it and to make an Estimate of such repairs and alterations as would enable Lady Charles to occupy it as a mere bathing Cottage. The Estimate given in was 2552 Rixdollars or £191 8s. Had it exceeded £200 I had determined not to undertake the work. I regret that I have not a plan of it, that Lord Bathurst may see how very small a Habitation it is. Lady Charles's health received so much benefit from her residence there, that I was induced to make many improvements at my *own private expense* in planting &c.

Having now, Sir, detailed minutely the circumstances which induced me to authorise the repair of this Cottage, as well as the position of Camp's Bay in a Military point of view, I have only to add that I shall bow cheerfully to any decision His Lordship may come to relative to it. I am however yet to learn why every portion of the expence of necessary repair to this Government Building was to be recommended to be charged against me, when it is considered a duty imposed upon the Governor to prevent, by directing timely repair, all Buildings, the property of Government, from falling into decay.

I have &c.

(Signed) CHARLES HENRY SOMERSET.

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[Original.]

*Letter from the* EARL OF CALEDON *to* R. W. HAY, ESQRE.

CALEDON, 28th November 1826.

MY DEAR SIR,—I have written to Lord Bathurst to-day to beg his consideration of the late Mr. Van Ryneveld's family. He was formerly Fiscal and afterwards President of the Court of Justice at the Cape of Good Hope, which offices he filled with great advantage to the public ; but he was best known by his steadfast attachment to the British Interests from the capture of the colony by Sir James Craig.

My object in addressing Lord Bathurst was to solicit the continuance of £100 per annum of the pension of £500 to Mrs. Van Ryneveld to each of his four daughters, and I have now to request of you when this subject is before His Lordship to bring under his notice the opinion of Lord Macartney and his successor as to the important service of Mr. Van Ryneveld. In fact it was to his exertions and to the influence he had over the minds of the Colonists that we are indebted for the maintenance of peace and good order after the recapture in 1806, and exclusive of my private regard for the family I really feel on public grounds that it would be politic to continue the pension. I remain &c.

(Signed) CALEDON. j

[Original.]

*Letter from SIR RUFANE DONKIN to R. W. HAY, ESQRE.*

33 PARK STREET, GROSVENOR SQUARE, November 28, 1826.

SIR,—I have been prevented from replying to your letter of the 29th of April last, partly by my absence from Town, and partly from my not having seen till yesterday the passage of the Report of the Commissioners of Enquiry at the Cape of Good Hope, relative to the case of Huntley and the Landdrost of Uitenhage, to which your letter referred.

I have now the honor of submitting most respectfully, for Earl Bathurst's information, the following statement in answer thereto :

In the first place, although I fully recognize my responsibility for all acts done by me or authorized by my signature during the time I held the Government of the Cape of Good Hope, I am quite persuaded that it cannot be Lord Bathurst's wish to apply this principle to me, in its strictest sense ; and I trust that his Lordship will moreover be pleased to give me the full benefit of another principle equally recognized, namely, that the official advisers of the Executive are also responsible for the advice they give, particularly in cases either technical or merely formal, such as is now under consideration.

It appears that my "interference with the Proceedings of the Court of Justice," as the Commissioners of Enquiry call it, amounts to no more than this, a Warrant was prepared by the proper office directing certain Judges of Circuit to proceed to hear and determine certain cases in the District of Uitenhage, and into this warrant the Law Officer who drew it up introduced the passage to which the Commissioners advert, and which Warrant I signed as a matter of course. Now, I must take leave here to remark that if the Commissioners had, before they made this Report to Lord Bathurst, enquired of the late Secretary to the Colony, of the Chief Justice, or of the Fiscal, they would have obtained such information as would have rendered any Report on this subject unnecessary, and thus too they would have avoided the ungracious opportunity of making a remark which, I respectfully submit, is quite gratuitous and uncalled for, namely, "that this is the only instance



which has come to our knowledge in which a direct interference with the Proceedings of a Court of Justice has been made by the person at the Head of the Government."

In this remark the Commissioners do nothing less than draw a comparison between my administration and that of another person, a mode of proceeding which, if followed up throughout, would not only be highly gratifying to me, but which might, in its development, produce results not calculated on when the above remark was penned.

I think I have some reason to complain of this mode of proceeding, as well as of the Commissioners not having applied to the proper officer on the spot for information as to the grounds on which the warrant was prepared by him for my signature.

I think too that the weekly paper called the "Schedule" would have been found to contain some note or explanation of this business, either in my handwriting or in Colonel Bird's, if the Commissioners had had recourse to it.

I will not allow myself to believe for one moment that Lord Bathurst has supposed, or will ever suppose, that there could have been any corrupt or personal motive actuating me when I signed the statement in question. The fact is, I have not the least recollection of the merits of the case, one of the parties, Mr. Huntley, I do not remember ever to have seen, but if I ever did see him it could not have been above once or twice, nor do I at all recollect in what rank or occupation he moved. The other party was Landdrost of the District, an officer of high authority and who had a right to demand all the *legal* support I could give him against a man who had accused, and I believe libelled him. These parties were near 600 miles from the Seat of Government ; that is, wholly beyond the sphere of all personal observation and feeling on my part ; and, moreover, had I so far forgotten my duty as to attempt to interfere extrajudicially in the proceedings of a Court of Justice, I had abundant modes of doing so, without committing the evident blunder of inserting my instructions to that effect in the very Commission under which the Judges were to act, and which was to be read in open Court as their authority for acting.

I hope the above explanations will be satisfactory to Earl Bathurst on their own grounds ; but, lest His Lordship should

still have any doubts on his mind, I beg leave to quote the 134th Article of a certain Digest (of whatever authority) called the "Crown Trial," a compilation of recent origin, but by which the proceedings of the Chief Court of Justice, the Courts of Circuit, and the District Courts are guided, and which, I apprehend, must have been the ground on which my legal adviser objected to "further evidence," Mr. Huntley having in some former proceeding set forth all he had to say against the Landdrost, and who had no doubt been called upon to prepare his defence on the original accusation alone. To come upon him, therefore, with new matter at the very moment of trial, and of which he had never heard before, would not only be contrary to the principles of General Law, but would have been in violation of the received Law of the Colony; for the 134th Article of the Crown Trial says,

*"No other Documents, or Evidence shall be admitted at the re-hearing but those produced in the first instance, unless by consent of the Court, to be given on legal grounds, but such consent shall not be granted in case it appears to the Court that the Appellant or Respondent, as the case may be, was aware of the existence of such documents or evidence at the time of the investigation of the case in the first instance, and had an opportunity of informing the Court thereof."*

In submitting the above point of Law to Lord Bathurst's consideration I beg leave to say that I do not now, nor did I ever at the Cape, take upon myself to be the expounder of the Dutch Law. When in office there, I constantly had recourse to my official legal advisers; but as I cannot have that advantage here, I have ventured to trust to my own research, and to submit to his Lordship the 134th Article of the Crown Trial as the authority under which I can be justified in having given the Instruction imputed to me, to the Judges of Circuit.

I have &c.

(Signed) R. S. DONKIN.

P.S.—Article 143 of the Crown Trial expressly says that "If the case be referred to the Commission of Circuit the same mode of proceeding is to be observed &c." And the next article, 144, further says, in reference to the Court of Circuit

mentioned in the last cited Article, "The production of *further* documents or evidence not produced in the first instance shall be subject to the same regulations as those laid down in the 134th Article."—R. S. D.

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[Office Copy.]

*Letter from* EARL BATHURST *to* MAJOR-GENERAL BOURKE.

DOWNING STREET, LONDON, 29 November 1826.

SIR,—I have the honor to acknowledge the receipt of your dispatch of the 12th August last, No. 58, stating the circumstances under which Dr. Andrew Smith has applied to you for a larger building for the use of the Museum which has been recently founded at the Cape of Good Hope.

Although there is no doubt that all Institutions of this nature cannot fail more or less to further the interests of Science, and there are several points of view under which it has been stated by Sir Everard Home that such an Institution may be peculiarly desirable at the Cape of Good Hope ; yet I see no reason why His Majesty's Government should undertake the expence of this Establishment ; and it must be unnecessary to repeat to you how desirable it is to avoid charging the Revenue of the Colony with any additional expences whatever.

If, however, you are well assured that the Museum may be made a subject of interest to the Public, and that there is a reasonable prospect that its enlargement and success may not be entirely dependant on the continuance of the industry of the Gentleman who has undertaken it, I would recommend that measures should be taken for connecting it with the Public Library, in which case I shall have no objection to authorize an expenditure of £100 for the support of the Museum ; the money to be defrayed out of the funds allotted for the support of the Public Library. I am &c.

(Signed) BATHURST.

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[Original.]

*Letter from MAJOR-GENERAL BOURKE to R. W. HAY, ESQRE.*

GOVERNMENT HOUSE, CAPE TOWN, 29th November 1826

MY DEAR SIR,—In reply to your letter of the 27th June last received here the 19th instant requiring, in consequence of Mr. Fowell Buxton's notice, copies of the reports of Field Cornets employed upon Commandos against Bushmen since the conquest of the Colony, I have the honor to enclose returns from the Districts of Graaff Reinet, Worcester and Stellenbosch setting forth the numbers and results of such Commandos from the earliest records in their respective Drostries to the beginning of the year 1824. These are the only documents upon the subject in the Chief Secretary's office, but I have directed exact copies of the Field Cornets' reports to be furnished by the Landdrosts of the mentioned Districts, which shall be forwarded by the first opportunity. As however all these are to be translated, some delay must necessarily take place in their transmission and I have thought it best to forward at this time the enclosed returns. To these I have added a few papers explaining in some degree the nature and origin of these Commandos and the manner of disposing of the prisoners made on such occasions.

I have to add that in the enclosures to a despatch of Lord C. H. Somerset to Earl Bathurst dated the 26th October 1824, which were transmitted to comply with an order of the House of Commons of the 8th July 1823, will be found some further information upon the subject of these Commandos against the bordering Tribes accused of plunder and other crimes. I have only to remark that they have long been considered in the light of great but unavoidable evils, but which it was hoped the progress of civilization and the increase of the Colonial population on the Frontier would gradually diminish, and they have in consequence been discountenanced and checked (probably as much as circumstances would permit) by the successive administrations of Dutch and English in this Colony.

Lately I have considered it my duty to prohibit Commandos crossing the Boundaries of the Settlement without the permis-



sion of Government, except under very particular circumstances. This I admit has been complained of as checking the pursuit of Stolen Cattle, but I do not find that the losses by depredations in this winter have exceeded or even equalled those of the last or former years, and I hope that when the Colonists perceive they are not allowed to indemnify themselves by retaliatory expeditions, they will become more vigilant and active in guarding their property from Plunderers.

In reply to the latter part of your letter I beg to say that I see no reason for objecting to the production of any papers that may be required on the subject of Commandos. I have &c.

(Signed)      RICHD. BOURKE.

[Enclosure 1 in the above.]

Return of all the Commandos or Expeditions against the Bosjesmen which have taken place at the Cape of Good Hope since 1797, stating the number of Bosjesmen killed, wounded, and taken Prisoners, stating also what had been done with the Prisoners.

Stellenbosch District. 14 Commandos, 45 killed, 4 wounded, 22 taken prisoners. The Commandos that proceeded against the Bosjesmen from this District were ordered out in consequence of the repeated depredations and murders committed by this marauding race of people. To repress this disposition on the part of the Bosjesmen no other means could be rendered available than that of immediate pursuit and punishment. The expeditions mostly took place during the latter end of the last century, and it has therefore been impracticable to ascertain precisely the fate of those taken prisoners. Some however it appears escaped, and it is surmised that the remainder were released.

Worcester District. 18 Commandos, 42 killed, 7 wounded, no prisoners. The same remarks are applicable in this instance.

Graaff Reinet District. 21 Commandos, 97 killed, 3 wounded, 280 taken prisoners. According to the practice of the District the prisoners were distributed among the Inhabitants and put out to service for a stated period. The greatest precaution

however has been observed in the treatment of these uncivilized people, and the Proclamation establishing the Registry of Slaves will show that no attempts could be successful to include any of this class amongst those unfortunate persons. The accompanying documents show the anxiety of the Colonial Government in this regard, and detail the system at present pursued and the regulations established respecting them. Most of the prisoners taken on these expeditions have returned to their kraals, and the remainder are living with the farmers on the same terms as their Hottentot servants. In cases where the perpetrators of murders could be discovered they were tried by the Colonial laws and if convicted underwent the punishment their crime demanded.

CAPE OF GOOD HOPE, 16th December 1824.

[Enclosure 2 in the above.]

Return of all Commandos or Expeditions against the Bosjesmen which have taken place in the District of Worcester since the year 1805 up to the end of 1823.

Date.	Killed.	Wounded.
7 February 1805 . .	1	-
18    "       " . .	-	-
2 March     " . .	-	1
20 August   " . .	2	-
5 October   " . .	-	-
7       "     " . .	23	-
1 December  " . .	9	3
31       "     " . .	1	-
20 March    1806 . .	-	-
3 November  " . .	-	-
12 February 1807 . .	-	-
3 May       " . .	-	-
5 July       " . .	-	-
25 February 1822 . .	-	-
7 March     " . .	-	-
22       "     " . .	6	3
24       "     " . .	-	-
11 April    " . .	-	-

(Signed) C. TRAPPES.

For the remaining Enclosures in this letter see

Volume XI, pages 325 and 365,

Volume XIV, pages 329, 340, 375, 381, 383, and 386,

Volume XVII, page 507, and

Volume XVIII, page 148.

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[Office Copy.]

*Letter from R. W. HAY, ESQRE., to J. C. HERRIES, ESQRE.*

DOWNING STREET, 29 November 1826.

SIR,—Earl Bathurst having directed Major General Bourke, in conformity with the desire expressed in your letter of the 12th of March last, to take measures for recovering from the Collector of Customs at the Cape the amount of a deficiency in the Revenue which was occasioned by the misconduct of a Clerk in the Collector's Office, I have received his Lordship's directions to transmit to you enclosed a copy of a dispatch, together with its enclosures, which have been received from Major General Bourke representing that there will be no other means for recovering the amount of the deficiency than by a stoppage of the Collector's Salary, for which the authority of the Board of Treasury will be required. I am also directed to transmit to you a copy of a communication which has been received from Governor Lord Charles Somerset bearing testimony to the character of the Collector, and to request that you will lay these papers before the Lords Commissioners of the Treasury for their Lordships' consideration. I am &c.

(Signed) R. W. HAY.

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[Original.]

*Letter from SIR RUFANE DONKIN to R. W. HAY, ESQRE.*

33 PARK STREET, GROSVENOR SQUARE, November 29, 1826.

SIR,—I beg leave to solicit Earl Bathurst's favorable interference in my behalf with the Lords Commissioners of His Majesty's Treasury for the final passing of my public accounts at the Cape of Good Hope.

In your letter of the 29th of August 1825 Lord Bathurst was pleased to signify to me his disposition to sanction certain Items which had been remarked on by the Commissioners of Colonial Audit, in consequence of the explanation which I had given, but his Lordship made an exception in regard to the salaries of the secretaries of the two Deputy Landdrosts of Clanwilliam and Cradock; and he was pleased to say that he would direct a reference to be made to the Colony. As nearly a year and a half has now elapsed since the date of your letter, and as I returned from the Cape nearly five years ago, I hope his Lordship will not think I am asking too much in now requesting the aid of his Lordship's Authority and Protection to obtain an order from the Treasury for the final passing of my accounts, the general character of which I flatter myself will have convinced his Lordship that the chief if not the sole causes of the delays which have occurred in passing them have been owing to the negligence with which they were prepared by those whose duty it was to have fortified them by every necessary document.

You will oblige me by bringing this subject before Lord Bathurst, and by requesting in my behalf his Lordship's favorable consideration of the matter. I have &c.

(Signed) R. S. DONKIN.

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[Original.]

*Letter from MR. JOHN THOMAS BIGGE to R. W. HAY, ESQRE.*

CAPE OF GOOD HOPE, 29th November 1826.

SIR,—I have the honor to transmit to you certain Documents, a Schedule of which is enclosed, and to which reference is made in our Report upon the Finances of the Colony.

I have been induced to retain one of them, a copy of the Charter of the Calcutta Bank, on account of the difficulty of procuring another in this place and the facility with which I conclude that it may be obtained in the India House in London. I have &c.

(Signed) JOHN THOMAS BIGGE.



[Copy.]

*Letter from the REVEREND M. BORCHERDS to SIR J. A. TRUTER and R. J. VAN DER RIET, ESQRE., Political Commissioners at the Synod of the Colonial Reformed Church at the Cape of Good Hope.*

STELLENBOSCH, 29th November 1826.

GENTLEMEN,—I take the liberty herewith to send you by the favorable opportunity of the Reverend Mr. Faure the Records of the last Synod as the same were yesterday transmitted to me by the Reverend Mr. Herold as Moderator and Secretary of the Synod, and which have been signed by us both, respectfully requesting that as we cannot translate them into English ourselves nor get it properly done here, you will have the goodness to cause it to be done for us in some way or other, if possible gratis, or if this be impracticable for account of the Synodical funds, and then to forward the same to Government. Not only I, but all my Coadjutors entertain the fullest confidence that you will do everything possible for the welfare of our church in general and of its Ministers in particular. With which, and wishing you God's blessing in all your undertakings and relations, I have &c.

(Signed) M. BORCHERDS, V.D.M.

[Original.]

*Letter from CAPTAIN MAINWARING to EARL BATHURST.*

CAPE OF GOOD HOPE, November 29th 1826.

MY LORD,—In thus again troubling your Lordship, and intruding on your time, I sincerely hope you will not be offended at, particularly as I so recently requested your interest and patronage, whereon your Lordship thought me worthy of being placed.

I stated to your Lordship that I feared the letter of introduction you did me the honor of giving would be of little avail, Lord Charles Somerset being away. Should your Lordship kindly mention my name to him, and honor me with

a letter introducing me to the Lieutenant Governor Major General Bourke it might be of greatest consequence, and feel assured from your Lordship's kindly tone and knowing my wish to obtain a situation for a *particular purpose* you will forgive my intrusion.

I can but feel much gratified since my arrival here by the very kind and hospitable attention I have received from Lady Mary Fitzroy and the Colonel, who are I am most rejoiced to say, particularly well, very happy, and all the family.

Trusting your Lordship and family enjoy most perfect health, and begging leave to wish your Lordship many happy returns of this season, I have &c.

(Signed) G. H. MAINWARING,  
Captain R. Artillery.

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[Office Copy.]

*Letter from* EARL BATHURST *to* LORD CHARLES SOMERSET.

DOWNING STREET, 30th November 1826.

MY LORD,—I have taken into consideration your Lordship's letter commenting on the Report made by the Commissioners of Enquiry upon the subject of the charges preferred against you by Mr. D'Escury.

Your Lordship's letter has entered into several satisfactory details, which either were not within the knowledge of the Commissioners, or had not been sufficiently explained by them in their Report ; and I am the more fully convinced by your letter, that your Lordship stands entirely acquitted of any dishonorable act or intention in the whole course of the transaction. It is, however, an additional proof how much it is to be regretted that you were induced from a sincere desire of benefiting the Settlement, to engage in an undertaking, which, from its nature, was unfortunately calculated to subject any person in so high an official situation to misrepresentation. I have &c.

(Signed) BATHURST.

[Original.]

*Letter from* LORD CHARLES SOMERSET *to* R. W. HAY, ESQRE.48 LOWER GROSVENOR STREET,  
LONDON, 30th November 1826.

SIR,—I have the honor to acknowledge the receipt of your letter of the 13th instant, transmitting to me Major General Bourke's Despatch to Earl Bathurst under date the 6th August last (which I herewith return) relative to the Government Farms at Groote Post and Buck Bay and the small Government Possession at Camp's Bay behind Cape Town.

With regard to the Groote Post Farm, I have so fully explained the importance and utility of the Establishment in the letter I had the honor to address to you on the 26th of July last, that I beg permission to refer Lord Bathurst to that letter; and I have to add that could a rent be obtained of 10 times or even 20 times the value of the land I should say the breaking up of the establishment would be a fatal blow to the future prosperity and agricultural interests of the Colony.

In an extensive Continent such as is the Colony of the Cape, adapted principally to the breeding of cattle, nothing can promote its permanent Interests so greatly as an improvement in the breed of the respective species of Cattle and the rendering One Animal as valuable as three of the same species have heretofore been. An improved Breed is only to be procured from Europe, and the Colonists of the Cape are almost all without Capital and are unable to undertake the Risk and Expence of procuring European animals; it is only therefore by such an Establishment as that at Groote Post that it can be effected. It is conducted with the greatest economy and without any expence to the Government. The overseer is a most efficient, diligent, and intelligent man, and the Stock is in so improving a state that I doubt not that the Farm will very shortly pay off the remaining Debt incurred previous to my undertaking its Direction, when it will yield a considerably larger annual profit to Government than any rent that could be obtained for it.

With regard to diminishing its extent, I must take upon me

to counsel Lord Bathurst *on no account* to sanction such a measure. On the means of change of pasture at different periods of the year depends in a great degree the successful rearing of Cattle at the Cape, so much so that even the smallest Farm is necessitated either to have a Farm beyond the Mountains (styled Overberg) or to hire grazing and send their Cattle away Overberg or to Saldanha Bay at particular periods of the year. The Groote Post now affords that necessary change of Pasture and were it diminished or divided would become of little value. I should rather recommend an addition to its extent if opportunity offered, than a diminution. In this opinion I am borne out by Mr. Commissioner Bigge who after he had seen the Groote Post Farm, upon my mentioning to him (in order to ascertain if it was in the contemplation of His Majesty's Commissioners of Inquiry to suggest any alteration in the tenure of the Groene Kloof Farms which were let in 1816 for 28 years by order of His Majesty's Government) that I had received an application from Mr. Frederick Duckitt to have his Farm, Oranje Fontein, extended to perpetual quit rent, suggested that from the great benefits which could not fail to arise to the agricultural interests of the Colony from the Groote Post Establishment, that it might become desirable at a future period to extend it and that as Oranje Fontein from its vicinity to it would be a most eligible addition it might be expedient to resume the power so to do.

I feel called upon to state that I differ most entirely with Major General Bourke as to the local situation of the Farm. Were every Farm in the Colony open for the choice of the Government with the intent of establishing one for the purposes to which Groote Post is applied, I certainly from my knowledge of the Colony should select Groote Post with the exception of Groene Kloof (only 7 miles distant from it). At the time Lord Caledon directed the Farm House at Groote Post to be erected, Groene Kloof was open to him, not being then, as now, occupied by a Body of the Moravians. His Lordship, who was well acquainted with the Colony, had of course good reasons for preferring Groote Post. Were it nearer to Cape Town it would not afford that extensive accommodation it now gives to the numerous Farms in Zwartland, Groene Kloof &c. by its Mill, Smith's and Wheelwright Shops:



&c. It is situate within  $1\frac{1}{2}$  mile of the Great Road to Cape Town from Zwartland, Saldanha Bay, &c., as much frequented as any road in the Colony. I consider therefore the situation of the Farm unexceptionable.

With regard to Buck Bay, the sole purpose for which it has been occupied is the burning of lime for the service of Government, and as convicts alone are employed on the work, I conceive that a very large saving has annually arisen from this Establishment, which existed long before the capture of the Colony by His Majesty's Arms. The Farm attached to it I conceive would not fetch £10 per annum, including the dwelling house, which stands on the edge of the Beach, which it appears Major General Bourke proposes should be reserved. If there were any expectation of inducing the Corn Growers to export their Corn from thence to Cape Town, it could only be effected by allowing them to store it in the Government Buildings there, and to convey it for them at an easy charge by the Government Schooner employed in carrying the lime to Table Bay ; but as I understand the Lieutenant Governor has discontinued that vessel, all hope of inducing the Corn Farmers to send their Grain by Water Carriage must cease, as they would not seek to hire freight until they had got into the Habit of resorting to Water Carriage.

As I have detailed so fully the circumstances relative to Camp's Bay in the Letter I had the honor to address you on the 28th instant, I have only to add to that statement that I consider that there are cogent and insurmountable objections against placing the Leper Institution there. I have &c.

(Signed) CHARLES HENRY SOMERSET.

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[Original.]

*Letter from MR. JOHN THOMAS BIGGE to R. W. HAY, ESQRE.*

CAPE OF GOOD HOPE, 30th November 1826.

SIR,—Since I had the honor to transmit our report upon the Finances of the Colony it has occurred to me that a misapprehension might possibly arise at the Treasury from a perusal

of the general account of the Debts and Credits of the Colony which forms the first Document in the Appendix.

Upon reference to that document you will find it stated that the amount of paper Currency in circulation on the 1st September 1826 was Rds. 3,099,204 5 sks., and that provision was made for the redemption of that amount.

The Commissariat Department has already received in exchange for Bills on the Lords of the Treasury a very large sum in paper currency, amounting to about one million of rixdollars, which are at present deposited in the Military Chest, but as a small portion of it has been from time to time reissued by the Commissariat, and as no public act has yet been passed or any other steps taken to cancel and destroy it, the paper actually in circulation was necessarily stated in our Report at the full amount of Rds. 3,099,204 5 sks.

The principle of the proposed redemption will not be affected by this circumstance, as in the event of our recommendation being adopted, it will only be necessary to direct the officer at the head of the Commissariat Department to pay over to the Colonial Government for the purpose of being destroyed an equal amount of paper Currency in exchange for the Drafts which we recommended to be drawn by the Colonial Government upon the British Treasury for that purpose.

I have &c.

(Signed) JOHN THOMAS BIGGE.

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[Original.]

*Memorial of the Uitenhage Agricultural and Horticultural Society.*

(Undated, but stamped as received on 3rd February 1827.)

To the Right Honourable Earl Bathurst, one of His Majesty's Most Honorable Privy Council and Principal Secretary of State for the Colonies, &c., &c., &c.

The Humble Memorial of the President and Members of the Agricultural and Horticultural Society of the District of

Uitenhage, in the Eastern Division of the Colony of the Cape of Good Hope, Respectfully Sheweth

That Your Lordship's Memorialists have long viewed with concern the slow progress of the state of Society in this part of the Colony, as also the influence of untoward circumstances in retarding the advancement of many of its most important interests, and impressed with a conviction that a well regulated Association may prove an efficient means to remove existing evils and to promote the interests that come within the range of its operations, that they have instituted, under the patronage of His Honor the Lieutenant Governor, the Agricultural and Horticultural Society of the District of Uitenhage, with the view of improving the general state of Husbandry and the various pursuits connected with that important branch of Industry.

That your Memorialists beg leave to represent to Your Lordship the circumstances which they conceive have operated to retard the progress of the District, and the measures they propose to meliorate or remove them, and to endeavour to infuse fresh energy into the industrious spirit of the Inhabitants.

That for Seven successive Years the Crops of this District, in common with those of most other parts of the Colony, have been subjected to the destructive influence of a virulent and contaminating disease called the Rust, the consequence of which, but for the thinness of population, must have eventually been a calamitous deficiency of the means of subsistence. On a majority of farms in this District a total failure ensued, and on others the return was so infected with the disease and so diminutive in size that it was incapable of being employed as seed.

That in addition to this evil which it is to be hoped may disappear, there is another of serious magnitude, the difficulty of cultivating the land from the want of manual labour, and consequently the impossibility of bringing into action the latent capabilities of the District. That this evil, which is the result of a combination of causes, has of late years greatly increased, and that its powerful influence is evinced in the arrested progress of improvement and increase.

That concurrent with this is the character and condition of the labouring class, which from the circumstance of there being

no more than Four Hundred effective male Slaves fit for field labour in the District, may be said to consist exclusively of Hottentots. That these, from their characteristic indolence and its consequent debility of body and inertness of mind, from their circumscribed views of want and comfort, and from the little exertion requisite to obtain the mere necessities of life amidst the scattered population of a productive country, are seldom aspirants to the character of industrious citizens, or inclined to give up the habits of a vagrant life for the fatigue and toil of an agricultural one.

That Your Lordship's Memorialists beg further to observe that the utility of this body of people as a labouring class is reduced to still narrower limits by the attachment of a large number of its young and healthy members to the Cape Colonial Corps.

That although your Memorialists must acknowledge the zeal of the Missionaries in propagating the truths of the Gospel among this uncivilized people, yet they cannot but lament that these laudable exertions to Christianize and meliorate the evils of a savage life are lessened in effect by the want of a concomitant effort to undermine the improvident and slothful habits peculiarly characteristic of this people, and from the weak and inadequate system of discipline and restriction at the Missionary institutions (those of the Moravians excepted), they thus unintentionally become the means of fostering, and even perpetuating the habits and propensities of their primitive state of life.

That your Memorialists impressed with the conviction that the most powerful persuasive to industry is the necessity of being industrious, beg humbly to propose to Your Lordship as a corrective to these evils an increase of effective population by the introduction of a body of useful Mechanics and industrious labourers under the stipulated condition of repayment to Government of the expenses attending their migration by instalments at convenient periods.

Finally, your Memorialists beg to state that the breeding of Cattle and Sheep and the growth of Corn are the principal objects of produce in the present state of the District, and that the first efforts of the Society will be directed to the improvement of these branches, by eradicating the present Colonial



Seed of Wheat, Barley, and Oats, through the substitution of European Seed ; by improving the breed of Cattle ; by introducing a breed of Sheep bearing Wool ; and by acquiring a supply of useful Mechanics and industrious Labourers.

That the Society, unable from its limited means to effect such extensive improvements, humbly solicits Your Lordship's interest in furtherance of their views, by taking the same into favorable consideration, and by granting such aid as to Your Lordship may seem meet.

And your Memorialists as in duty bound will ever pray.

(Signed)        J. G. CUYLER, President,  
                     EDWIN C. EMETT, Hon. Secretary.

[Annexure to the above.]

A few cursory observations descriptive of the several places of note in the Eastern Division of the Colony, which includes the Districts of Graaff Reynet, Somerset, Albany, Uitenhage, and part of George. It commences at Plettenberg's Bay and embraces the coast eastward to the Great Fish River, which forms the boundary between the Colony and Caffraria.

Graaff Reynet is now a Town of considerable magnitude, the chief town of the District and the place of residence of the local magistracy ; it is situate in the centre of South Africa, very productive in fruits, and from the rapid improvements made it already enjoys all the comforts, and many of the refinements, of an advanced state of Society. The greatest disadvantage under which it labours is its distance from a Port or any place of export. The nearest is Algoa Bay, which is 150 miles distant.

Somerset is a small but rising village. It is situate about 120 miles from Algoa Bay and about halfway between Graaff Reynet and Graham's Town. It is the seat of the magistracy of the District bearing the same name. Although but lately erected into a distinct province, yet from its having been a part of others of long standing, it is well inhabited and possesses great quantities of Stock.

Graham's Town is 110 miles eastward of Algoa Bay, and 90 from Uitenhage. The head quarters of the military force

stationed on the Frontier to protect the Colony from the inroads of the Caffers, it is rapidly increasing in size and population. It is the chief town of the District of Albany (principally inhabited by British Settlers) and the residence of the local magistracy. It carries on a considerable trade in Ivory and Skins with the different Caffre tribes that live near the boundaries of the Colony.

Algoa Bay (or Port Elizabeth) is the Port of the Eastern Division. Possessing this advantage, it must rise in importance with the neighbouring Districts to which it forms the place of export. When more generally known, it will no doubt become a place of shelter to East India Traders when the North-West winds prevail and expose them to much danger and difficulty in rounding the Cape during the winter months. The apprehensions as to its insecurity and the violence of the surf, like those which were entertained respecting the navigation of the coast, are no longer the bugbear which they were but a few years ago. Algoa Bay should be considered the port for Winter, and Table Bay for Summer. The one is secure from the North-West, the other from the South-East winds.

Uitenhage is a town of less magnitude than Graaff Reynet or Graham's Town, but from its central situation as regards the respective Districts of the Eastern Division and from its contiguity to Algoa Bay, being only 18 miles distant, which is the only port of magnitude on the eastern coast, it possesses commercial advantages to a greater extent than any other town in the Division. And from the fertility of its soil, abundant and never failing supply of water, and its site which admits of its becoming an extensive town, it is presumed it may become the seat of the Deputy Government which has been lately appointed for the Colony.

The appointment of Lieutenant Governor is an event of much consequence, inasmuch as it shews the value which the Home Government attaches to the Eastern Division of the Colony, originating no doubt in the report of His Majesty's Commissioners of Inquiry.

The Division furnishes in its present unimproved state the most considerable part (Wine excepted) of the exports from the Cape; and when its advantageous situation for carrying

on a profitable trade with the adjacent country of Caffraria is employed to more extensive advantage its exports will be materially improved.

It will soon exceed the Western Division in population and valuable importance, as its latent capabilities are superior. Its grazing properties are at present the distinguishing feature of resource for exports. In the absence of an official return we are deterred from stating the exact number of Sheep; but it is matter of regret that the Cape Sheep should almost exclusively hold the place of Merino or any kind of Sheep producing Wool. In one of the four Districts, viz. Graaff Reinet, there are 788,000 Cape, and but 1000 Spanish. Somerset is still superior in number and adaptation. It bears a great resemblance to those parts of Spain where the extensive flocks of Sheep are pastured.

There is no doubt that on a comparison of the capabilities for the growth of wool, this country would be found decidedly superior to that of New South Wales. The report of the Commissioners of Enquiry on this head will no doubt open the eyes of the Colonists, and make them astonished at their apathy and neglect in attending to such valuable produce. Another advantage we possess over New South Wales is the low rate of inland transport and of freight homewards when compared with those of that country. The present exports here are coastwise to Table Bay, and consist in Butter, Soap, Tallow, Cheese, Ivory, Hides, Skins, Aloes, Gum, Salt, and Sole Leather. Occasionally to the Mauritius Butter and Stock, also to St. Helena.

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[Original.]

*Letter from MAJOR-GENERAL BOURKE to EARL BATHURST.*

GOVERNMENT HOUSE, CAPE TOWN, 1st December 1826.

MY LORD,—With reference to the despatch which I had the honor of addressing to your Lordship on the 2nd September last enclosing explanations of the surcharges on the accounts of the Acting Governor Sir Rufane Donkin, I have now the honor to acquaint your Lordship that having called upon

Captain Stockenstrom to afford explanation upon the subject of the double payment made to him, as alluded to in the lists transmitted by the Colonial Auditors, I have received his reply, of which the enclosure No. 1 is a copy.

Having also referred to Captain Page an extract from the surcharges in question, in which he is held accountable for certain overpayments received by him as late Acting Paymaster of the Cape Corps, that officer has been enabled satisfactorily to explain some of the items referred to, and the amount due by him to the Public on this account has therefore been reduced, as your Lordship will perceive by enclosures 2, 3, and 4, to Rds. 916 1 4½, which sum he has accordingly been obliged to refund. I have &c.

(Signed) RICHD. BOURKE.

[The enclosures are not to be found in the Public Record Office.—G. M. T.]

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[Copy.]

*Petition to Parliament.*

To the Honourable the Knights, Citizens, and Burghers in Parliament assembled.

The Petition of the Undersigned Inhabitants of the Cape of Good Hope Humbly Sheweth,—

That your Petitioners are Inhabitants of His Majesty's Colony of the Cape of Good Hope, connected intimately with its Commercial, Agricultural, and other interests, and therefore deeply anxious for the general welfare of the Settlement.

That owing to various causes aggravated, as your Petitioners believe, by the nature of the Local Government, and by the imperfection of the Colonial Laws and Institutions, as well as by the manner in which these have been administered for many years past, Property, of every sort, has fallen greatly in value, Trade is languishing, and the Productions of the soil seem no longer able to reward the labor, or even to replace the capital, sunk in its cultivation. Wine, the chief of these productions, having fallen far below a remunerating price to the grower :



repeated failures of the Corn crops having reduced the Grain farmers to great distress, and rendered it necessary to import Wheat, in order to guard against an absolute scarcity ; whilst the minor articles of Colonial Produce have fallen to about one half their usual price, so that neither capital nor industry can at present be invested or employed with any reasonable prospect of advantage.

That, notwithstanding this frightful state of things, your Petitioners beg to assure your Honorable House, that they were waiting, with anxiety certainly, but at the same time with much confidence, for the completion of the Report of His Majesty's Commissioners of Inquiry, expecting that the result of their mission would have manifested itself in some general plan for the relief of the Colony, and more especially for the reduction of the heavy weight of Taxes, unequally and injudiciously levied, and of the expenditure of the Colonial Government, which is unnecessarily large, and altogether disproportioned to the resources of the Colony.

That your Petitioners, however, since the arrival of His Majesty's Commissioners amongst them, have seen with regret and alarm, the appointment of several new Functionaries from England, the creation of new salaries on an extravagant scale, and within the last month, at a time of, perhaps, the greatest distress that was ever witnessed, the imposition of a higher rate of postage, and an additional tax in the shape of a Stamp duty on Newspapers and other periodical works published in the Colony, a measure altogether unexpected, and tending, in the opinion of your Petitioners, to check the spread of knowledge, and to retard the complete union of the different classes of the inhabitants.

That the foregoing circumstances, together with the apprehension that the recent Imposts may be a prelude to additional Taxes, already too oppressive, have roused your Petitioners to a sense of the duty which they owe to themselves, and to the Settlement, and induced them to throw themselves for protection and redress on the wisdom and justice of your Honorable House.

That your Petitioners forbear to detain your Honorable House, by going minutely into the nature of the Institutions of the Colony, or by recapitulating all the measures of which

they have felt the evil consequences ; they merely beg permission to represent to your Honorable House, that Supreme Power lodged in the hands of one man, assisted only by a Council composed of Military Officers and of Civil Functionaries, removable at pleasure, cannot be expected to be exercised at all times simply for the good of the people.

That a Bench of Judges, removable at the pleasure of the Governor, uncontrolled, unaided, and unprotected by any institution resembling that of a Jury, can scarcely be expected to secure or deserve the confidence of the inhabitants ; that under the too extensive powers vested in the country Functionaries, the inhabitants of the country districts are exposed to encroachments on their property and personal rights : that the people having no voice in the Government can neither prevent excessive taxation, nor check extravagant expenditure of the Public Money.

That your Petitioners would further solicit the attention of your Honorable House to the heavy losses they have sustained from the breach of the pledge given by Government for the gradual diminution of a redundant Paper Currency inconvertible into specie, and the consequent depreciation and continually declining value of the Circulating Medium, and of every description of Property, which your Petitioners conceive to be the principal cause of the evils that weigh so heavily at present on their Agricultural, Commercial, and other Interests, and have involved in almost irretrievable ruin the circumstances of a great part of the community.

That heavy Imposts and partial restraints on Colonial Articles of Export, together with the vacillating policy of the Colonial Government, have discouraged enterprise, and greatly injured all classes of the community, the Colonial duty on Wine, for example, amounting to about 30 per cent of its immediate price previous to its exportation, which appears to your Petitioners to be exorbitant, impolitic, and destructive to the Capital of the Growers : that the Salaries of the Chief Functionaries are beyond all proportion higher than the resources of the Colony warrant : that the expences of the Cape Corps have been much greater than was requisite to maintain a force quite adequate to protect the Frontier under other regulations : and that in fine, the extravagance of our

establishments seems, to have grown and increased, as the wealth and resources of the Colonists diminished.

That your Petitioners therefore humbly implore that your Honorable House, taking the premises into consideration, and availing itself of every other means of obtaining correct information concerning the reality and extent of our sufferings, our wants, and our capabilities, will be pleased to adopt such measures as may be best calculated to obtain for this Colony redress for the past, and security for the future: and your Petitioners beg respectfully to suggest to your Honorable House, the expediency of providing for the immediate relief of the distressed state of Commerce, by removing all Colonial Imposts on Wine and other Produce exported, by reducing the rate of duty on Cape Wines in England, by the admission of Cape Spirits to entry for home consumption there at the same rate of duty as is payable on Rum produced in the Mauritius and in the British Colonies in the West Indies, by the admission into Great Britain of Cape Wheat, on terms similar to those enjoyed by the Canadian Corn growers, and by such other indulgences as may appear reasonable and just to your Honorable House; whilst, to prevent the recurrence of evils arising from the nature of the Local Government and Institutions, your Petitioners humbly pray that your Honorable House will please to take into its grave consideration the propriety and policy of extending to the Inhabitants of this Colony, as has been done with so much advantage and success to Canada and other Colonies, the blessings of a Representative Government, Trial by Jury, an Independent Bench of Judges, and the Liberty of the Press, duly protected by Law.

And your Petitioners, as in duty bound, will every pray.

CAPE TOWN, *December 1, 1826.*

[No names are attached to this copy.—G. M. T.]

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[Office Copy.]

*Letter from LORD BATHURST to the EARL OF CALEDON.*

DOWNING STREET, 2nd December 1826.

MY LORD,—I have had the honor of receiving your Lordship's letter applying for a continuation of Mrs. Ryneveld's Pension in favor of her Daughters, on the ground of Mr. Ryneveld's meritorious conduct towards the British Government.

Before I had received your Lordship's letter I had received one from Lieutenant Governor Bourke to the same effect, and I felt great regret in being obliged to give him the same answer which I must give your Lordship, viz. that the state of the Cape Finances will not allow me to comply with the application, even if it might not have been questionable to continue pensions to a second generation. I have &c.

(Signed) BATHURST.

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[Original.]

*Letter from MAJOR-GENERAL BOURKE to EARL BATHURST.*

GOVERNMENT HOUSE, CAPE TOWN, 2nd December 1826.

MY LORD,—I have had the honor to receive your Lordship's despatch under date 23rd March last, No. 253, addressed to His Excellency Lord Charles Somerset, desiring to be furnished with a Return called for by the House of Commons connected with the Slave Population in this Colony, and in compliance with your Lordship's directions I beg to enclose the Return required as far as it is applicable to this Settlement. I have &c.

(Signed) RICHD. BOURKE.



[Enclosure in the above.]

*Return of all the Public Functionaries being or acting as Governor, Lieutenant Governor, Chief Judge, Assistant Judge, Attorney General, Fiscal, Protector or Assistant Protector of Slaves, Bishop, Archdeacon or Incumbent, or holding any Patent Offices under the Crown, who are Proprietors of Slaves, or of Plantations worked by Slaves, or who are concerned in the Management of Slaves, either as Attorney, Manager, Trustee, Mortgagee, Executor, or otherwise in the Colony of the Cape of Good Hope.*

Office.	Name of the Functionary.	Number of Slaves of whom he is Proprietor.	Number of Slaves under his Management as Attorney, &c.	Nature of Employment in which the Slaves are engaged.	Remarks.
Governor . . .	Lord C. H. Somerset .	None.	None.		
Lieutenant Governor .	Major General Bourke	—	—		
Judge of the Vice Admiralty Court.	Geo. Kekewich .	—	—		
Chief Justice . . .	Sir J. A. Truter, knt. .	Males 25	—	Domestic and agricultural labour.	Most of the Male Slaves stated in this return to be engaged in field or agricultural labour, are employed in vineyards, there being no plantations of any other nature in this colony.
		Females 12	—	Domestic labour.	
		Children 12	—	Domestic labour.	
		Males 21	—	Domestic labour.	
		Females 5	—	Domestic labour.	
Member of the Court of Justice . . .	W. Hiddingh, LL.D. .	Child 1	1	Domestic and agricultural labour.	
Do. . . . .	J. H. Neethling, LL.D.	Males 8	—	Domestic labour.	
		Females 2	None.	Domestic labour.	
		Children 4	—	Domestic labour.	

Do.	.	.	W. Bentinck, LL.D.	None.	—	Domestic labour	{ Two of the Males work at trades.
Do.	.	.	J. C. Fleck	Males 5 Females 6 Children 9	—		
Do.	.	.	P. J. Truter, jun.	Males 2 Females 3 Children 7	—	do.	
Do.	.	.	P. B. Boreherds	Males 2 Females 3 Children 2	—	do.	{ Two of the Males have learnt trades.
Do.	.	.	R. Rogerson	None.	2	Domestic labour	
Do.	.	.	J. H. Brand	Males 8 Females 9 Children 6	None.		
Fiscal	.	.	D. Denysen, LL.D.	Males 4 Females 5 Children 5	—	do.	{ One Male is a Mechanic.
Deputy Fiscal	.	.	J. J. Lind, LL.D.	None.	—	As cook	
Superintendent of Police	.	.	C. de Lorentz	Male 1	—	As cook	
Registrar and Guardian of Slaves.	.	.	G. J. Rogers	Female 1	—	As housemaid	{ One Male is a Mechanic.
Assistant to do., Simon's Town.	.	.	C. M. Lind	Males 4 Females 3 Children 2	—	Domestic labour	
Assistant to the Registrar and Guardian of Slaves, Stellenbosch.	.	.	P. C. van Blommestein	Male 1 Females 3 Children 8	—	House work	
Do. Swellendam	.	.	J. A. H. Falck	None.	2	Field & domestic labour	{ Domestic labour
Do. Graaff Reinet	.	.	J. J. Meintjes	Males 2 Females 2	None.		
Do. Beaufort	.	.	T. N. G. Muller	None.	—		
Do. Uitenhage	.	.	W. Hudson	None.	—		
Do. Worcester	.	.	C. F. Scholtz	None.	—		

## Return of all the Public Functionaries, etc.—continued.

Office.	Name of the Functionary.	Number of Slaves of whom he is Proprietor.	Number of Slaves under his Management as Attorney, &c.	Nature of Employment in which the Slaves are engaged.	Remarks.
Assistant to the Registrar and Guardian of Slaves, Clanwilliam.	D. Schönberg . .	None.	None.		
Do. George . .	D. Coolhaas . .	do.			
Do. Albany . .	G. Dyason . .	do.			
Do. Somerset . .	A. G. von Bratt . .	do.			
Colonial Chaplain, Cape Town.	Rev. Geo. Hough, A.M.	do.			
Do. Simon's Town .	Rev. Geo. Sturt . .	do.	1 female	House work	
Do. Graham's Town.	Rev. T. Ireland . .	do.	None.	House work	
Do. Port Elizabeth .	Rev. F. McClelland .	Female 1 Child 1	—	House and garden work	
Landdrost, Cape District	Hon. J. W. Stoll . .	Males 8 Females 4 Children 3	—		
Heemraad, do. . .	J. A. Smuts . .	Males 5 Females 2 Children 2	—	do.	Two Heemraden retire annually from office, and are replaced by two others, annually elected. They serve gratuitously.
Do. . .	W. F. Versfeld . .	Males 11 Females 2 Children 4	—	Domestic & field labour	
Do. . .	D. W. Hertzog . .	Male 1 Females 3 Child 1	—	House work	

Do.	.	F. W. Woeke	Males 10 Females 5 Children 2	—	House and garden work	Three of the Males have acquired a knowledge of trades.
Do.	.	H. P. Moller	Males 4 Females 4 Children 3	—	Garden work	
Do.	.	J. G. Blankenberg	Males 5 Females 2 Children 2	—	House work	One Male is a Mechanic.
Do.	.	S. de Kock	Males 17 Females 11 Children 5 Child 1	—	House and garden work	
Do.	.	A. J. Louw	Males 11 Females 2 Children 2	—	Agricultural labour	Two mechanics.
Government Resident, Simon's Town.	.	M. G. Blake	Males 16 Females 3 Children 7	—	House work	
Heemraad, do.	.	J. A. Hurter	Males 7 Females 4 Children 7	—	Field and house labour	
Do.	.	P. Rucker	Males 29 Females 10 Children 5 Males 35	—	do.	
Landdrost, of Stellen- bosch.	.	D. J. van Ryneveld	Females 15 Children 18 Males 3 Female 1 Children 2	—	House work	One Male Mechanic.
Heemraad, do.	.	J. C. Faure		—	Agricultural labour	Seven Mechanics.
Do.	.	J. A. Myburgh		—	House work	
Do.	.	F. Roos		—	Agricultural & domestic labour.	
	.			—	House work	
	.			—	{Field labour and house work.	One Male Mechanic.



## Return of all the Public Functionaries, etc.—continued.

Office.	Name of the Functionary.	Number of Slaves of whom he is Proprietor.	Number of Slaves under his Management as Attorney, &c.	Nature of Employment in which the Slaves are engaged.	Remarks.
Heemraad, Stellenbosch	P. Marais .	Males 13 Females 5 Children 7	None.	Field labour House work	Two Mechanics.
Do.	J. P. Roux .	Males 23 Females 9 Children 9	—	do.	Three Mechanics.
Do.	C. J. Briers .	Males 11 Females 8 Children 2	—	do.	One Mechanic.
Do.	A. C. van der Byl .	Males 9 Females 5 Children 12	—	Agricultural labour House work	Six Mechanics.
Do.	E. du Toit, sen.	Males 11 Females 4 Children 8	—	do.	
Acting Landdrost, Swellendam.	M. Steyn .	Males 12 Females 5 Males 10 Females 4	—	do.	
Special Heemraad, Caledon.	T. J. Tesselair .	Males 10 Females 4 Males 10 Females 3	—	do.	
Heemraad, Swellendam	J. P. Maree .	Males 10 Females 3 Males 25 Females 18	—	do.	
Do.	J. W. Wessels .	Males 6 Females 4	—	do.	
Do.	J. W. Groenewald		—	do.	

Do.	.	H. Steyn .	Males	2	Field labour	—
Do.	.	J. F. J. van Rensburg	Males	7	do.	—
Do.	.	F. J. van Zyl .	Females	5	House work	—
Landdrost, Graaff Reinet	.	A. Stockenstrom	Females	15}	do.	—
			Females	11}		
			Males	6}	do.	—
			Females	3}		
Heemraad, do.	.	H. A. Meintjes .	Children	6		
			Male	1}	do.	—
			Female	1}		
			Child	1		
Do.	.	J. Joubert	Males	4}	do.	—
			Females	4}		
Do.	.	W. G. Greybe .	Female	1	do.	—
			Child	1		
Do.	.	P. J. Retief .	Males	6	Field labour	—
			Females	4	House work	—
			Children	4		
Do.	.	D. Naude	Male	1}	do.	—
			Female	1}		
			Child	1		
Do.	.	J. B. van Blerck	Males	6}	do.	—
			Female	1}		
			Children	8		
Deputy Landdrost, Beaufort.	.	J. Baird .	Males	4}	Field labour	—
			Females	3}	House work	—
			Child	1		
Heemraad, do.	.	J. de Clercq .	Males	4}	do.	—
			Females	1}		
Do.	.	R. J. Raath .	Female	1	House work	—
Landdrost, Uitenhage .	.	J. G. Cuyler .	Males	4}	do.	—
			Females	4}		
			Children	8		

## Return of all the Public Functionaries, etc.—continued.

Office.	Name of the Functionary.	Number of Slaves of whom he is Proprietor.	Number of Slaves under his Management as Attorney, &c.	Nature of Employment in which the Slaves are engaged.	Remarks.
Heemraad, Uitenhage.	G. van Rooyen	Males 6 Females 2	None.	Field labour	One Mechanic.
Do.	P. J. Heugh	Males 3 Females 3	—	House work	
Do.	E. C. Emett	Female 1 Children 2	—	do.	
Do.	J. A. van Niekerk	Males 2 Females 2	—	Field labour	
Do.	J. J. Muller	Children 2 Males 8 Females 5	—	House work	
Landdrost, Worcester.	C. Trappes	Children 5 Male 1	—	Field labour	
Heemraad, do.	J. P. Jordaan	Female 9 Males 9	—	House work	
Do.	P. J. de Vos	Females 3 Males 18 Females 9	—	do.	One Mechanic.
Do.	K. S. Erasmus	Children 11 Males 5 Female 1	—	do.	Four Mechanics,
Do.	J. Meiring	Males 5 Females 4 Children 2	—	do.	One Mechanic.
Do.			—	do.	One Mechanic.

Do.	.	R. Meiring	.	Males 3	—	do.	
Do.	.	B. van der Merwe	.	Females 3	—	do.	
Do.	.	W. de Wet	.	Males 5	—	do.	
Do.	.	P. J. Theron	.	Females 3	—	do.	Two Mechanics.
Do.	.		.	Males 10	—		
Do.	.		.	Females 5	—		
Do.	.		.	Children 4	—		
Do.	.		.	Males 9	—	do.	
Do.	.		.	Females 6	—		
Do.	.		.	Children 13	—		
Do.	.		.	Males 2	—	House work	
Do.	.		.	Females 2	—	Field labour	
Do.	.		.	Males 8	—	House work	
Do.	.		.	Females 4	—	do.	
Do.	.		.	Males 3	—	do.	
Do.	.		.	Females 1	—	do.	
Do.	.		.	Males 9	—	do.	
Do.	.		.	Females 3	—	do.	
Do.	.		.	Males 3	—	do.	
Do.	.		.	Females 2	—	do.	
Do.	.		.	Males 3	—	do.	
Do.	.		.	Females 4	—	do.	
Do.	.		.	Children 2	—	House work	
Do.	.		.	Males 9	—	As Saddlers, Hatters, and farmers.	
Do.	.		.	Female 1	—	House work	
Do.	.		.	Child 1	—	Field labour	
Do.	.		.	Males 2	—	House work	
Do.	.		.	Female 1	—		
Do.	.		.	Children 7	—		
Do.	.		.	Males 6	—	do.	
Do.	.		.	Females 4	—		
Do.	.		.	Children 6	—		



## Return of all the Public Functionaries, etc.—continued.

Office.	Name of the Functionary.	Number of slaves of whom he is Proprietor.	Number of slaves under his Management as Attorney, &c.	Nature of Employment in which the Slaves are engaged.	Remarks.
Heemraad, George .	J. H. Barnard .	Males 4 } Females 2 } Children 7	None.	House work	
Do. . . . .	J. A. Raubenheimer .	Males 2 } Females 3 } Children 2	—	do.	
Do. . . . .	A. M. Meyer .	Males 7 } Females 6 } Children 4	—	do.	
Heemraad, Albany .	C. F. Pohl .	Males 18	—	Agricultural labour	
Do., Somerset .	J. J. Durand .	Male 1	—	Field labour	
Do. . . . .	C. Hattingh .	Females 2 } Children 2 } Males 4 } Females 2 }	—	do.	
Do. . . . .	W. A. de Klerck .	Child 1	—	Field labour	
Do. . . . .	P. J. du Plessis .	Males 3 } Children 4 } Females 2 }	—	Field labour	
Do. . . . .	A. Botha .	Males 2 } Females 3 } Children 2 }	—	do.	
Do. . . . .	J. P. Jordaan .	Males 1 } Children 3 } Children 2	—	Field labour.	

(Signed) F. DICKINSON, Colonial Office.

[Printed Copy.]

*Letter from LORD CHARLES SOMERSET to EARL BATHURST.*

LONDON, 1826.

MY LORD,—I am compelled, by circumstances to which I shall shortly advert, to request your Lordship's attention to the following narrative of facts, connected with the conduct of Mr. P. S. Buisinne, a public officer in the colony of the Cape of Good Hope. In the vindication of my own character, I shall be compelled to bring under your Lordship's notice statements highly injurious to that gentleman's reputation, and to quote some letters written by him, which from motives of compassion I have hitherto concealed. After the perusal of the following pages, your Lordship will I trust perceive, that I could not avoid these disclosures. The persons who have undertaken to advocate the cause of Mr. Buisinne have publicly called upon me to defend my own character; it is with sincere regret that, in obeying that call, I find myself compelled to inculcate his. Nothing but the imperious necessity of rescuing myself from unmerited obloquy would induce me to advert to the errors of a man, whose offences against myself have long since been frankly confessed and sincerely forgiven.

In the month of October 1823, Mr. Buisinne held the offices of receiver of land revenue and member of the court of justice at the Cape of Good Hope. Mr. Bentinck, the auditor-general of public accounts, having discovered that certain sums received by Mr. Buisinne, as receiver of land revenue, had not been paid over to the public account, called upon him officially for an explanation of that circumstance. Mr. Buisinne's answer was conveyed in the form of a private letter; it was in the following words:

25th October 1823.

MY DEAR BENTINCK,—It would be wrong to screen from you the true state of things. I cannot answer your last query otherways, but that I have not got the money to place in the bank, and have disposed of it for private purposes. But, my dear friend, this is not all; independent of what you know, I have received from the landdrost of George, rixdollars 4,085; from the landdrost of Graaff Reinet, rixdollars 10,932; and from the sequestrator, on account of the estate of John Frederick, upwards rixdollars 2,100.

The case is therefore completely desperate ; and all that remains to be done is to resign, give up my estate to the sequestrator, and throw myself upon the mercy of Lord Charles, whose kindness to me has always been very great. Before you say a word to any body, see Stoll, to whom I have written. I have not strength to say any thing more, being completely exhausted by the pangs of conscience and anxiety. Yours truly,

P. S. BUISSINNE.

To Walter Bentinck, Esq.

Mr. Bentinck did not immediately communicate the contents of this letter to me. From feelings of compassion towards Mr. Buissinne, and in compliance with his wish, he represented the state of the case to Mr. Stoll, an intimate friend of that gentleman, in the hope that some means might be found of making good the amount of Mr. Buissinne's default. Mr. Bentinck's endeavours were fruitless, but Mr. Buissinne referred to them with expressions of gratitude in a second letter, which he addressed to Mr. Bentinck on the 26th of October. The following are the terms of that letter :

26th October 1823.

MY DEAR BENTINCK,—I enclose you my answer to your query, which contains all I can do. I have not the smallest doubt that Lord Charles will agree to it. I know his kind disposition towards me ; I am convinced of it by many proofs. He will very likely look upon me with disdain at first, and I certainly deserve it ; but when he comes to consider that a sinking man catches any thing he can grasp, his well-known kindness will lead him to pity me. After what passed between you and Stoll, I need not say any thing more to you. I know you are my friend ; you may depend I am your's, most sincerely,

P. S. BUISSINNE.

To Walter Bentinck, Esquire.

Upon receiving these letters, Mr. Bentinck felt that his public duty would no longer permit the concealment of the circumstances to which they referred ; he therefore, on the 27th of October, for the first time, reported the state of the case to me. The public interest required that Mr. Buissinne should no longer continue in a situation of pecuniary trust ; it followed, as an unavoidable consequence, that he could not be retained in a high judicial situation ; the removal of Mr. Buissinne from both his offices was therefore necessary. Feelings of compassion, however, rendered me anxious to effect his removal in a manner the least painful to him ; nor shall

I disguise from your Lordship that there were other reasons which augmented my desire to behave towards this gentleman with the utmost possible forbearance.

Mr. Buissinne is the brother-in-law of Colonel Bird ; and your Lordship is aware that at the period to which I refer, there had been an entire cessation of all friendly intercourse between Colonel Bird and myself ; I was of course therefore solicitous to avoid even the appearance of treating so near a connexion of that gentleman with needless severity.

For these reasons I deemed it best to abstain from all immediate personal interference. I requested Mr. Bentinck to resume the communication into which he had entered with Mr. Stoll ; and I authorized Mr. Bentinck to state that I should not act upon the information I had received until two days had elapsed, and that although I could not allow Mr. Buissinne to retain the public offices, I should be willing to accept his resignation on the plea of health ; and I further desired Mr. Bentinck to state, that if in the interval of two days the money misappropriated by Mr. Buissinne were replaced by his connexions, the circumstances which had occurred should be concealed, and Mr. Buissinne's character sheltered from public reproach. If in thus consulting Mr. Buissinne's reputation I acted with improper leniency, I trust that in consideration of the motives by which I was governed, I shall escape your Lordship's censure.

Mr. Bentinck immediately made to Mr. Stoll the communication which I had directed, but without effect. At the expiration of the period of two days, Mr. Bentinck reported to me that Mr. Buissinne's friends declined to assist him ; but that Mr. Buissinne proposed to liquidate the amount of his deficiency, partly by appropriating for that purpose the salaries of his public offices, and partly by a sale of all his moveable effects ; I of course declined to accede to such a proposal. I accordingly instructed Mr. Stoll to state to Mr. Buissinne, that unless he immediately resigned his public employments, it would become my duty to proceed to his suspension from office. On the same day, viz. the 29th of October, Mr. Buissinne accordingly tendered his resignation, which was accepted.

Having thus performed the painful but necessary task of removing Mr. Buissinne from his public offices, it became



necessary to take measures for protecting the revenue from the loss with which it was threatened. For this purpose, on the same day (the 29th of October), I wrote the draft of a letter, to be addressed to the sequestrator by the colonial secretary. As the office of colonial secretary was at this time held by Colonel Bird, your Lordship will readily understand the motives which induced me to relieve him from the duty of preparing this letter. It was in the following terms :—

P. S. Buissinne, Esquire, having repeated to the auditor-general that it is not in his power to comply with a demand that has been made upon him to make good certain sums (amounting altogether to upwards of 40,000 rix-dollars), which appear deficient in the accounts of the land revenue office, I am directed by his Excellency the Governor to direct you forthwith to take possession of Mr. Buissinne's estate and effects, in order to secure the debt due by him to Government.

To R. J. van der Riet, Esquire, Sequestrator.

Adhering to my general purpose of extending to Mr. Buissinne the utmost degree of indulgence, compatible with public duty, I decided not to dispatch my instructions to the sequestrator, until I had ascertained whether there were any other mode of proceeding equally advantageous to the public, and less painful to Mr. Buissinne and his connexions ; I accordingly addressed the following note to Colonel Bird :—

COLONIAL OFFICE, *October 29th 1823.*

Lord Charles Somerset concludes that Colonel Bird is not ignorant of the circumstance that has occurred in the land revenue office. Lord Charles received the official communication of it on Monday last, and he has refrained from acting upon it for forty-eight hours, in the hope that Mr. Buissinne's friends might find the means to save his fame. Mr. Buissinne has now tendered the resignation of his offices, and Lord Charles conceives that a letter to the purport of the enclosed pencilled draft should go immediately to the sequestrator. If there is any other mode of proceeding more delicate or considerate towards Mr. Buissinne and his friends which would equally secure the public, Lord Charles will most willingly adopt it, but it is Lord Charles's first duty to secure the public interests by every means within his power.

Upon receiving this letter, Colonel Bird attended me and represented that the writing such a letter as I proposed to the sequestrator would be an informal and unprecedented measure. In deference to his opinion, I accordingly abstained from for-

warding it, but I adhered to my purpose of enforcing the payment of what was due to the public by a confiscation of Mr. Buissinne's estate. I however again assured Colonel Bird of my wish to adopt whatever course would be least painful to Mr. Buissinne and his family, and I requested Colonel Bird to state whether he thought I could act in any milder manner. Colonel Bird's answer in substance was, that as I had refused to accept Mr. Buissinne's proposal, he did not think that any milder course of proceeding was now open to me than that which I proposed to pursue.

I have hitherto spoken of Mr. Buissinne as the holder of two public offices only, and up to that period of time to which my narrative has reached, I was not myself aware he was in possession of a third ; but after my interview with Colonel Bird I learned that Mr. Buissinne was executing the office of Dutch translator for the *Government Gazette*.

It is necessary to observe that the office of government translator had been held by Mr. D'Escury at a fixed salary. It had been the duty of that officer to translate either into the Dutch or English language all advertisements published in the *Government Gazette* up to the period of his quitting the colony on leave in 1819, for which a fee according to a tariff was charged, and the amount arising therefrom duly paid into the colonial treasury. So much of this arrangement as directed the fee to be paid into the treasury was done away during my absence from the colony, or by the colonial secretary when I was present, but without my knowledge. I have not the means here of ascertaining the precise period, nor have I ever been able to trace any official record of it, and thenceforth Mr. Buissinne was employed to translate these advertisements, and the fee was divided between him and the superintendent of the printing office. It is however sufficiently obvious that the authority of government must have been used at whatever period the alteration was made, which at once refutes the extravagant assertion that Mr. Buissinne's emoluments on this head were derived from a private arrangement ; it followed of course, therefore, that in being permitted to resign his situations under the colonial government, this one was necessarily included.

However distressing to the feelings of Mr. Buissinne's friends

my measures inevitably were, I might perhaps, with some justice, have anticipated that I should at least have been safe from the imputation of having acted with undue rigour. It unfortunately becomes my duty to explain to your Lordship the conduct which Mr. Buissinne thought it proper to observe ; upon which, however, I feel it would be unnecessary to comment.

Mr. John Collison is a merchant of eminence and of great respectability in Cape Town. To this gentleman Mr. Buissinne addressed two letters, dated the 30th October and the 1st of November 1823. I here transcribe them verbatim.

LIESBEEK COTTAGE, 30 *October* 1823.

MY DEAR FRIEND,—The colonel has as it were dragged me from the Keyzers Gragt, but it gives me no relief ; I am, however, sufficiently composed to let you know what has brought on my sudden fall. I had appropriated to my own use part of the public monies under my administration ; here I certainly have been wrong. Bentinck got aware of it, and instead of coming to me like a friend, and telling me so, immediately wrote me an official query why the money was not in the bank. I immediately went to Stoll, and arranged so, that I would give up the whole of my quarter's pay till the arrear was made up. This was immediately proposed to Bentinck who shammed to be very happy at the arrangement, called it very fair, and said he would speak to Lord Charles, who he said he thought would not hesitate to accept of the offer. A while after he returned word to Stoll that Lord Charles would take no notice of the thing, but leave us to arrange in the best way we could ; the next day it was arranged between me and Stoll that we would propose to pay 10,000 rixdollars at the end of the year independent of the pay, so as to bring the matter to a proper settlement and that I should hold a sale, dispose of every thing that I could spare, let my house, and go and live at this place. This plan was again suggested to Bentinck, and he referred Stoll to Lord Charles, Stoll then called upon Lord C. but found him quite changed ; nothing but ready money *within twenty-four hours* or immediate prosecution was the alternative ; and as the former was quite impossible, and the latter would have heaped disgrace upon disgrace, there was no other way open but to give over and resign. Stoll then again went to Lord C., informed him of the impossibility of finding the money immediately, represented the ruinous consequences attendant on the latter measures, and urged the necessity of giving further time ; but all in vain. This was too fine an opportunity of putting a sting into Bird's heart and providing a favourite with two fine situations as the result will show, and I was sacrificed together with all my friends.

I particularly wish that these facts should be known to Matille, J. Deane, Dawes, Murphy, Twycross, Cook, and Thompson and Levick, that these people may know how the thing came upon me like a shot unexpectedly fired.

You will hear further from me to-morrow; pray, if you see any of them, mention it. Yours truly,

P. S. BUISSINNE.

LIESBEEK COTTAGE, 1st of November 1823.

MY DEAR COLLISON,—I sent you yesterday a full statement of the manner in which my fall was effected by Lord Charles assisted by Bentinck.

However severe the measures taken in that respect, nay however cruel the treatment was, what I now am going to state to you is worse still. After having ruined me, Lord Charles is now proceeding to crush me. You recollect that I told you often that the printing office gave me about 3,000 rixdollars per annum. This revenue arose from an arrangement I had made with Ross the superintendent of the printing office to assist him in translating the weekly paper. When Ross went, I renewed my arrangement with Richert, and the whole arrangement was completely a *private* thing between the superintendent of the printing office and myself, to which the Governor had nothing to say. What does Lord Charles do now? he directs Richert no longer to employ *me*, but from this day to employ his friend Mr. Horak, the famous gambler, and thus takes away from me every thing—an employment of which he has no right to dispose. For God's sake, my friend, make this affair as public as you can, for Lord Charles's conduct is so base, mean and shameful, that it ought to be made public. He also now taxes Bird of being the cause of my having been placed in my former situations; this is not true, it was his own doing in order to enable me to pay off a heavy debt of 26,000 rixdollars, for a stallion of 7,500 rixdollars, and a lot of mares, cows, &c., and the situation in the land revenue office was given me by Sir Rufane Donkin at the express desire of Lord Charles. I understand it is said that I received large sums within the last four months from Hoets and Dawes, and must have secreted these monies. The fact is that all these monies went into the treasury to pay off monies which I had received last year and not accounted for, as De Smidt and Loedolph can tell you. Such like things it is necessary you should know for the information of all concerned. My affairs are in a shocking state it is true—but how came they to be so? they cannot be otherwise. Hoffman knows that I went to Swellendam with upwards of 70,000 rixdollars in debt, a great part of this I have paid off, but how?—by borrowing from Peter to pay Paul; consequently I have been paying interest on this tremendous amount ever since the year 1810, which is fourteen years, and makes the debt nearly double; then it is a thing very well known that I was obliged to run in debt 2,000 rixdollars annually and more whilst I resided at Swellendam, which was near ten years. Then I can show by my books that I lost upwards of 24,000 rixdollars by my speculation in farming and breeding. If all these sums are cast up, being:

The old debt	.	.	.	.	.	.	Rds. 70,000
Fourteen years interest	.	.	.	.	.	.	58,500
Swellendam debt (independent of interest)	.	.	.	.	.	.	20,000
Loss in speculation	.	.	.	.	.	.	26,000

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Rds. 174,500



And Hoffman knows likewise that nearly the whole of the old debt was occasioned by Borgtogten and bad debts ; for I never was too lazy to work ; no drunkard or spendthrift ; but always a hardworking but unfortunate man.

I have given you this statement to let you see how things come on. If any report against me is circulating, pray let me know. If I am guilty, I'll confess frankly ; if not, I'll vindicate my conduct. God bless you, my dear friend.

(Signed) P. S. BUISSINNE.

When I went to Swellendam my pay was rixdollars 2,500, and of which I had to pay an official agent rixdollars 300 ; the extra allowance arrears were about 500 rixdollars per annum. In 1812 I think the salary was augmented to 3,500 rixdollars and in 1819 to 4,500 rixdollars ; but what is even that compared to the establishment that one is obliged to keep up ? What will the world say to the appointment of the new judge ?

In compliance with the wish expressed in the last of these letters, they were read publicly in the commercial room at Cape Town, in the hearing of all the persons who were present there. Mr. Collison, however, thought it his duty to deliver them to a gentleman in the public service in the colony, with a distinct permission to him to communicate them to me ; they were accordingly placed in my possession.

These letters were brought to my knowledge within a few days after I had accepted Mr. Buissinne's resignation ; but on the day previous to my receiving them, I had called upon the fiscal to report to me what steps he had taken in proceeding against Mr. Buissinne, to recover the amount that was due from him to the Crown ; and I was not a little surprised to learn from the fiscal that he was waiting for specific orders from the government, previous to commencing a prosecution against Mr. Buissinne for his default. I therefore, after expressing my expectation that these measures would have been adopted by him as a matter of course, in the ordinary routine of his official duty, gave him strict injunctions to delay his proceedings no longer.

Upon receiving these letters I transmitted them to the fiscal, directing him to adopt the measures prescribed by the law in cases of this nature. Whatever allowances I was disposed to make for the situation and feelings of the writer, I did not deem it right to pass over in silence an attack upon my public character, to which Mr. Buissinne had strenuously given publicity in the most offensive manner. It may be proper that

I should here observe that the allusions contained in the last letter, respecting the purchase of horses and cattle, did not refer to any transaction in which I had any personal concern ; it never occurred to me to have any pecuniary transaction with Mr. Buissinne.

The fiscal having instituted a criminal prosecution against Mr. Buissinne, for the double offence of defrauding the revenue and of publicly calumniating myself, a decree of apprehension was issued, under which Mr. Buissinne was lodged in the common gaol ; his trial before two commissioners of the court followed in a very few days. Further consideration having induced me to think that the imputations against myself, in the letters to Mr. Collison, were scarcely worthy of any serious attention, and that it might be thought unbecoming to urge any offence against myself as an aggravation of the punishment which Mr. Buissinne would incur for his delinquency towards the public, I directed the fiscal to expunge from the act of accusation whatever related to the libel contained in the letter to Mr. Collison : accordingly, when Mr. Buissinne was brought before the court, the fiscal publicly declared, that in obedience to my directions, he should drop that part of the charge.

It is not without great reluctance I lay before your Lordship the following copies of the letters in which Mr. Buissinne acknowledged the obligations which he conceived himself to owe to Lady Charles Somerset and to myself for this act of forbearance. I would willingly have suppressed these communications, from a conviction that the terms of them will probably produce an unfavourable impression of Mr. Buissinne's character ; but when I am accused of treating that gentleman with cruelty and oppression, it becomes necessary to show in what light he himself regarded my conduct. His letters are as follows :—

TOWN PRISON, 9th of November 1823.

MOST REVERED LADY,—I cannot but ascribe it, in a great measure, to the influence of your kind and compassionate interference, that his Lordship has so generously forgiven me, after I had so greatly offended him. It has caused those odious letters to be buried in oblivion. Oh that he could for ever efface the contents from his memory ! for they were really the work of madness. Your Ladyship will perceive, from the foregoing lines, that it is not to ask a new favour that I am so bold as to address you again ; no,

it is to unburthen a mind which, though at present suffering and oppressed by many cares and misfortunes, cannot forget the gratitude it owes for a kind and generous action. It is a peculiar privilege of your sex, my Lady, to be seldom prevented by official duty from listening to the calls of tender mercy and benevolence. To a mind like yours this must be a pleasing reflection. I know that I cannot add to the gratification resulting from your benevolence by my poor thanks, yet I could not refrain from writing to your Ladyship on the present occasion, and to assure your Ladyship, that whatever may be my future destinies, or wherever I may spend the remainder of my days, I shall never forget the kindness of your Ladyship. I ought to have acquitted myself of this duty before this, but both state of body and mind have prevented it. I have &c.

(Signed) P. S. BUISSINNE.

Lady Charles Somerset, Governess, &c. &c. &c.

TOWN PRISON, 9th of November 1823.

MY LORD,—A generous deed always carries its best reward along with it ; yet it may not be ungratifying to your Lordship to know, that the fallen individual whom you have so generously forgiven his offences against yourself is deeply impressed with the kindness of that act. Permit me then, my Lord, to pour out my sincerest thanks for your unmerited kindness, and to assure your Lordship, that in the midst of all my other sufferings and misfortunes, it now is, and always will be, a great consolation to me to be convinced that my personal offences against your Lordship have been freely forgiven.

I would have acquitted myself of this duty before this, but the state of my body and mind did not allow it ; and this I know will be a sufficient apology

I have &c.

(Signed) P. S. BUISSINNE.

His Excellency Lord Charles Henry Somerset, Governor, &c. &c. &c.

The commissioners of the court of justice condemned Mr. Buissonne to three years banishment from the colony, and to remain in prison until the time of his departure. I have not in my possession any copy of the legal proceedings in this case, and I can therefore state the result of them only from memory. My recollection, however, enables me to state that Mr. Buissonne appealed to the full court ; and, as I presume, the public prosecutor appealed also. In the result the full court increased the sentence of its commissioners, they extended the period of banishment to seven years, which were to be computed from the day of his departure from the colony. Previously to his departure, he was however to render his accounts to the

government, and to pay the balance due from him, unless the government should relieve him from that obligation.

Your Lordship is aware that the law has fixed a period, beyond which appeals cannot be brought up as a matter of right before the court of appeals, against the decision of the court of justice. This period expired, and Mr. Buissinne preferred an appeal. A considerable time afterwards (the precise period of which I do not remember), he requested that, as a matter of grace and indulgence, the appeal might be admitted. In deference to the best legal advice which it was in my power to procure, I refused after so long a delay to grant the appeal. According to the practice of the colony, I signed my fiat on the sentence, to signify that it was to take effect, and be carried into execution ; but at the same time I thought it an act of justice to Mr. Buissinne, to observe that I had not been able to discover in the proceedings that *specific proof* of the crime of perjury had been exhibited before the court. If I committed any error in recording this observation, it was an error of which Mr. Buissinne at least had no cause to complain, my single intention being (whatever grounds there might be for the imputation) to rescue his character, as far as the recording such an observation could tend to do so, from a reproach which it did not appear had been in direct proof before the court.

If the terms of the sentence seem to your Lordship severe, it is neither my duty nor my interest to justify them. I presume that the court proceeded according to the rules of law, for the propriety of which neither they nor I can be responsible. But whatever may be the nominal severity of the sentence, it was rigorous only in name ; in point of fact the decree of banishment was never carried into execution, nor was Mr. Buissinne long confined in prison ; he was shortly removed to very commodious apartments in the public hospital, and was afterwards permitted to repair to the Caledon Baths, a place of frequent resort for invalids, where he still remained when I quitted the colony. For this practical mitigation of his sentence, he was indebted to the indulgence which I conceived myself at liberty to extend to him. Upon a review of the whole of these transactions, I should certainly rather have anticipated the charge of undue forbearance than that of



excessive severity. I have now, however, to lay before your Lordship a statement of the circumstance which has led to my trespassing on your attention with a narrative thus tedious and minute, but which I trust your Lordship will think could not with propriety have been abridged.

In the newspaper published at the Cape of Good Hope, on Wednesday the 24th day of May last, intituled the *South African Commercial Advertiser*, a paragraph is to be found, which professes to contain a statement of the case of Mr. Buissinne. I proceed to transcribe it, premising that the various assertions it contains, are, as I trust distinctly met and satisfactorily refuted in the preceding pages. The paragraph is as follows :

The following case of Mr. P. S. Buissinne, late receiver of land revenue at the Cape, has been transmitted to us for publication. This gentleman, after a series of pecuniary embarrassments, employed a portion of the public money under his trust, and on examining the books of his office, a deficiency of 4,500 rixdollars was discovered. Mr. Buissinne, on entering upon his office, had given the usual security of 20,000 rixdollars. When the examination of his books took place he admitted the default, he threw himself on the Governor's mercy, and offered to surrender the whole of his estate, which he said he expected would, in addition to the security given, cover the full amount of the deficiency, praying at the same time, that in so doing, he might be allowed to resign ; to this the governor assented. Mr. Buissinne surrendered his estate to the sequestrator, and his resignation was accepted ; the property was sold, and as Mr. Buissinne had anticipated, the proceeds, together with the security given, fully covered the deficiency in his accounts ; and therefore the public, having sustained no loss by him, had no further claim against him. Mr. Buissinne having thus surrendered all he possessed in the world, had no other dependence for the support of himself and family but what he derived from a private arrangement between himself and the superintendent of the government press, for whom he translated the advertisements inserted in the *Gazette*, and divided the profits of those transactions with him. No sooner, however, had Lord Charles Somerset become acquainted with this arrangement, than he made, for the first time, a government appointment of it in favour of another, and thus deprived Mr. Buissinne of his only means of support. Mr. Buissinne driven to despair by this proceeding, wrote a letter to a friend, in which he imprudently gave full scope to his feelings, and was not sparing of remarks on Lord C. Somerset's conduct, on which he severely animadverted. This kindled his Lordship's wrath against him to a degree that, notwithstanding the Sabbath, the president and members of the court of justice were summoned out of church, in order to meet at the president's house for the purpose of taking forthwith this weighty matter into consideration ; but whether they could not make it out to be sufficiently grave to admit of summary proceedings, or from whatsoever

other cause, they re-agitated the subject of Mr. Buissonne's default, and issued a decree of apprehension against him, in consequence of which he was lodged in the common gaol, and His Majesty's fiscal was directed to prosecute him. In consequence of this, an indictment was made out, charging him with defrauding the revenue, which was untrue at the time, as has been shown before ; (he had defaulted in his payments but had not defrauded the revenue, his books were in order, the official prosecutor admitted that there was no fraud, and this admission was entered on the proceedings ;) and for writing a libel against the Governor. The first part of the indictment was no longer matter for prosecution, the latter was abandoned by his Lordship himself. The letter was therefore destroyed, and consequently it is not even known whether the contents were in the eyes of the law libellous or not ; therefore, in fact, there was no legitimate ground whatsoever for the prosecution of Mr. Buissonne upon these charges set forth in the indictment. But the worshipful court of justice directed its commissioners of first instance to proceed to try the prisoner ; he was accordingly put to the bar, tried, found guilty, sentenced to three years banishment from the colony, and to remain in prison until the time of his departure.

From this sentence Mr. Buissonne appealed to the court. By deciding on this appeal, the court had only either to confirm the sentence appealed from, or to mitigate or reverse it ; but instead of this the court started an entire new subject, and disclosed it to the public and to the prisoner himself only at the reading of the sentence, wherein was introduced a crime not included in the indictment, for which the prisoner had consequently not been tried, and of which he had not even been suspected. This imputed crime was of no less magnitude than that of perjury, and upon this the court aggravated the original sentence in the following manner, as pronounced in court, and promulgated in the *Government Gazette* of the 29th of November 1823, headed thus : " The case of P. S. Buissonne, appellant, to the full court, from a sentence given against him by two commissioners of the court of justice, on the 7th instant : The court declares the prisoner guilty of embezzling the public money, aggravated by perjury, and consequently unworthy of holding any office under His Majesty's Government ; condemns the prisoner to be banished from this colony, and the territories and dependencies thereof, for seven successive years, on pain of severer punishment should he return within the same during that period ; declares that his banishment shall only take effect after prisoner's estate shall have been liquidated by the sequestrator, and after the prisoner shall have rendered proper account of his administration as receiver of land revenue, and shall have liquidated with His Majesty's Government, or shall have been relieved from so doing by Government ; directs that the prisoner shall remain in confinement until he shall have complied herewith, and thereupon be confined at Robben Island, or some other secure place, until a fit opportunity occurs for his removal ; the day of the prisoner's embarkation to be considered as the day of the prisoner's banishment, with condemnation of the prisoner in costs." The place of confinement here pointed out, Robben Island, is that where all the convicts are kept ! This charge of perjury originated in what can hardly be considered

otherwise than a wilful misconstruction of the following oath, quarterly taken by the receiver of the land revenue ; he swears : “ I hereby make oath that the above is a just, true and full account of the receipts in the department, to the best of my knowledge and belief.” Now all the books were perfectly correct, the money had been received as therein stated, but misapplied to the amount above mentioned ; this latter, therefore, alone constituted the offence, and therefore there was no particle of justifiable ground for this heavy charge, much less can the inflicting a punishment for it be justified without trying its validity, and putting the accused upon his defence. But the affair did not rest here : Lord Charles Somerset confirmed the sentence ! Mr. Buissinne noted a further appeal, but on account of some delay beyond the time prescribed, of which the court of appeals took advantage, the appeal was refused, and Lord Charles Somerset, who, as sole judge in the said court, might have waved the objection, did, on the contrary, confirm the sentence of the court of justice, although he declared at the same time, in writing, when signing his fiat, that the charge of perjury (which is the ground of the aggravated sentence) could not be maintained, not having been included in the indictment ; thus confirming the punishment, whilst he denied the ground on which it was awarded, and Mr. Buissinne remains to this day suffering under its consequences.

On contrasting this paragraph with the statement which I have had the honour to lay before your Lordship, it would appear, that by the ordinary artifices of calumny, the suppression of some facts, and the exaggeration of others, the writer has exhibited an account of my conduct utterly at variance with truth. I am held forth to the world as oppressive and tyrannical in a transaction in which, as I have shown, not by my own assertions merely, but by the repeated admissions of Mr. Buissinne himself, I omitted no act of consideration or kindness by which it was possible for me to alleviate his misfortunes. For the present, it is enough for me to have vindicated myself. It will be for your Lordship to consider how far the peace of society, and the good government of the settlement, are compatible with the continuance of a publication conducted upon such principles, and under the management of persons capable of such misrepresentations of truth.

I have &c.

(Signed) CHARLES HENRY SOMERSET.

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[Office Copy.]

*Letter from* EARL BATHURST *to* MAJOR-GENERAL BOURKE.

DOWNING STREET, LONDON, 3rd December 1826.

SIR,—I transmit to you enclosed a copy of a letter which I have received from Governor Lord Charles Somerset representing the false and calumnious nature of a statement entitled Mr. Buissinné's case, which was published in the *South African Commercial Advertiser* of Wednesday the 24th of May last; and I have to instruct you to cancel the licence under which Mr. George Greig has been allowed to print and publish that Journal. I am &c.

(Signed) BATHURST.

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[Copy.]

*Hansard's Parliamentary Debates.*

7 December 1826.

Cape of Good Hope.—Conduct of Lord Charles Somerset.—

Mr. *Hume* rose for the purpose of calling the attention of the House to a subject, into which justice to the complaints of the colony, and to the character of the individual who was accused as the author of those complaints, required that it should institute an immediate inquiry. Many members of the House might not, perhaps, understand the course which had been adopted with regard to the Cape of Good Hope. In the year 1822, in consequence of the reports which had reached England respecting the misgovernment of that colony, the House had presented an address to his majesty, requesting him to appoint a commission to inquire into the state of that colony, as far as regarded its revenue, its institutions, and the conduct of its governor. On a motion which he had made last session, the instructions sent to the gentlemen who formed the commission were laid upon the table. He was not going, on the present occasion, to question in any respect the propriety of those instructions, though he could not help remarking, that three



years and a half had elapsed without the House receiving any information as to the labour of the commissioners, except in one solitary case, into which it appeared that they had instituted some inquiry. Neither was he going to complain of the conduct of the commissioners, though from statements which had been forwarded, and in some degree authenticated, to him, he was inclined to question the propriety of their conduct. He was anxious, that the hon. Secretary opposite would state how the House stood with regard to the inquiry into the conduct of the noble lord who had come home from his government in order to meet it. There were various circumstances which rendered an inquiry into the conduct of the governor of a distant colony a matter of considerable difficulty. There was an imperative necessity for investigation. At present, they had nothing but *ex-parte* statements before them, and they were really ignorant of the situation of the colony, either with respect to the inquiry which had been going on, or to the complaints which had been made by individuals. It was stated last session, that leave would be given to lord Charles Somerset to come home, for the purpose of meeting the charges that had been made against him, and they were now, he thought, in a situation when the House ought to ascertain what was meant to be done. In presenting a petition on this subject last year, he had inquired whether certain persons, colonel Bird and others, would be prevented from returning to the Cape, in order that they might be forthcoming to give information which might tend to exculpate or criminate the noble lord. The evidence of those persons was most material; but nevertheless they were sent back. It was quite impossible for the noble lord to retrieve his character, or to return to the colony, unless some proceeding were adopted in his case. He would, therefore, ask the honourable gentleman in what state they now were, or what course ministers meant to adopt with respect to the noble lord? It was fit that the noble lord himself, and the numerous persons sent from the colony, and who sought for redress against the noble lord, should be made acquainted with the course which it was intended to pursue. Therefore, to accelerate the period when this inquiry should take place, he begged leave to ask ministers, whether they had made up their minds as to when that proceeding should commence? It was

necessary that an inquiry should be instituted, and that, too, speedily, that the noble lord might clear his character from the aspersions that had been thrown upon it, and the charges which had been brought against him, as well as to do justice to the interests of various individuals in the colony. There were, certainly, suspicious circumstances attending the conduct of government in this affair. If he was rightly informed, colonel Bird, instead of having been kept here to give evidence, had been sent back to the colony, and pensions granted to him and certain members of his family ; for what reason he could not conceive. If this was the case, suspicion certainly rested on the conduct of those who ought to see impartial justice administered. If the answer given to what he now asked was not satisfactory, he would then proceed to state such information as he had acquired on the subject.

Mr. *Wilmot Horton* said, that the course taken by the honourable gentleman was so very extraordinary, that he scarcely knew how to meet it. On a former night the honourable gentleman had stated that he would move for certain papers, and he had informed him that ministers would grant some of those papers, and state their reasons for refusing the remainder. But now the honourable gentleman shifted his ground, and wished to know what ministers meant to do with respect to the general inquiry. Did the honourable gentleman think that the commissioners had done nothing ? Did he suppose that they had made no inquiry ? There were on their table 230 closely printed folio pages, on a case which had occupied that House three or four times, and on which several discussions had taken place. The honourable member had expressed his opinion on that case, and had stated that he was prepared to support it. He alluded to the case of Mr. Bishop Burnett. The investigation of that case had cost the country many thousand pounds. It had detained the commissioners at the Cape half-a-year longer than they would otherwise have remained there. No pains had been spared in that investigation ; and here were the means, if gentlemen would read these papers, of deciding on this case, as clearly as any inquiry, or combination of inquiries, which the wit of man could devise, would enable them to do. Was it, then, intended, after this proceeding, that the case should be thrown aside, and

that they should go into an indefinite inquiry without any specific facts before them? The honourable gentleman had asserted, that he had looked into those papers, and was prepared to consider them. If so, was he ready to support the case of Mr. Bishop Burnett? Was it fit that he should call for more papers until that case was disposed of? If that case were decided in favour of lord Charles Somerset—if nine cases were afterwards decided in his favour—still it would be proper for the House to entertain a tenth, if the statement of facts were sufficiently strong; but he contended, that it was contrary to the principles of justice to recede from this particular inquiry, and go into others of an indefinite nature. When the case to which he had alluded was decided, he would deny no papers for which the honourable gentleman might think proper to move, provided he laid fair parliamentary grounds for their production. As to the papers which the honourable gentleman meant to move for that night, on what parliamentary ground did he intend to rest his application? Had he, out of doors, looked into those papers; and, if so, did he find in them matter for a charge? If he did, then he was ready to give the honourable gentleman an answer. If a gentleman came forward, and said, “I have looked into this or that particular case, and it demands inquiry,” it then rested with government to decide whether they ought to grant the papers which he desired, or to resist the application in part, or altogether. He felt that they would be doing flagrant injustice to the noble lord, after the calumnies that had been heaped upon him, by various means, and from various quarters, if they proceeded in the manner pointed out by the honourable gentleman. Would it, he asked, be worthy of that House to put aside a case which was ready for investigation, and to go into an indefinite inquiry, with respect to charges got up by any means, as to the general government of the Cape? There was no man who would not sink under such an accumulation of charges brought forward in such a manner. He did not prejudge the case of Mr. Bishop Burnett; but, before they proceeded with any other, they ought certainly to decide upon that. There was no want of information. On the contrary, there was an abundance of gratuitous information offered to the House. As a proof of which, he held in his hand Mr. Bishop Burnett’s answer to the

report of the commissioners ; \* and if all the calumnies, and all the declamation which it contained, were expunged, it might be put into the shape of a memorial, and placed in the hands of members. Throughout that production, its author imputed to government the worst motives, and to the commissioners the basest feelings. He felt himself under the necessity of giving this answer to the honourable gentleman. If he moved for papers, he would agree to the production of such as could be granted with propriety, and he would state his reasons for withholding such as ought to be refused.

Mr. *Hume* said, he would now submit a motion to the House, which would enable him to point out the extraordinary conduct of the honourable gentleman on this occasion. The honourable gentleman had asked him, if he would proceed with the case of Mr. Bishop Burnett ? Now, he had nothing to do with that case. He did not present the petition of that individual. It was brought forward by the learned member for Winchelsea, who was not now present. But, suppose the whole of that case, as charged, fully proved ; because an individual had acted erroneously in one instance, was he to be condemned altogether ? That would be unjust to lord Charles Somerset. That case was only one of many charges against that noble lord's government. Conduct was imputed to him, for a long-continued period, which demanded inquiry. But not only did the honourable gentleman ask him to go on with this case, but he wished to father on him a book, purporting to be the answer of Mr. Bishop Burnett to the report of the commissioners. Was the conduct and character of lord Charles Somerset to rest on that single case ? He would answer, no ; and would state his reason for demanding an inquiry. He held in his hand a list of several persons who had been banished from the colony, and who were now seeking for redress. He had stated the case of Mr. Edwards ; and he was told that, having been a convict, no inquiry could take place with respect to him. But his having been a convict at one time of his life, had nothing to do with his after conduct. With respect to Mr. Bishop Burnett, was it just to him, when he entreated leave to go back to the colony, to refuse him ? Yet such was the fact. He

\* This is too long for insertion in this volume : it will be found at the commencement of the next.—G. M. T.



was refused by the department with which the honourable gentleman was connected. Surely, the government could not rest contented with this half-mangled case. The cases of D'Escury and Greig, individuals who had been banished, called loudly for inquiry. Documents had, indeed, been laid on the table, but no statement of the grounds on which these persons had been banished. There were also the cases of Mr. Francis, of lieutenants White and Clarke, of Dr. Geary, and of several other persons, and amongst them a lady, the whole of whom complained of acts of gross oppression. These complaints, coming from so many quarters, demanded a strict investigation. But this was not all. The conduct of lord Charles Somerset, with respect to his financial proceedings in the colony, deserved to be inquired into. That extravagant and wasteful expenditure which had almost ruined the colony, was a fit subject for parliamentary inquiry. Without pledging himself as to the course which he might pursue after the recess, he thought it was incumbent on ministers to bring home from the Cape many witnesses who could give important evidence in this business. He understood, that, in September last, two of the commissioners had left the Cape, and one continued there to despatch the remaining business. He supposed, therefore, that those gentlemen had arrived in this country, and that from them government would receive much additional information. This was another reason for instituting an inquiry as soon as possible. The instructions in conformity with which the commissioners were to act at the Cape directed, that they should not inquire into any cases, except those sent out from the department here, or those which were of a special nature. This, he contended, operated decidedly against a full and impartial inquiry. The commissioners ought to have been empowered to hear, generally, the complaints of the inhabitants; but that was impossible under this very partial instruction. He meant to move for the following papers:—"1. Copy of lieutenant-colonel Bird's examination, and correspondence, if any, with the Commissioners of Inquiry. 2. Correspondence between the Colonial Department and the Commissioners of Inquiry, in reference to all complaints preferred against lord Charles Somerset's Government. 3. Reports of the Commissioners on all special cases referred to their investigation.

4. List of all persons banished from the Cape of Good Hope during the government of Lord Charles Somerset. 5. Copies of Mr. D'Escury's correspondence with the Colonial Department, and the Commissioners of Inquiry."

Mr. *Ord* said, he felt it to be his duty to vindicate, as far as his abilities would allow him, the conduct of the commissioners of inquiry. He possessed no materials that would enable him to enter into a laboured defence of those gentlemen; but he must say, that the honourable member had just as little ground for making an attack on them. Nearly connected as he was, in relationship, with one of those commissioners, Mr. Bigge, any thing he might say in his favour might be attributed to partiality. He should, therefore, only state, that Mr. Bigge was as incapable of being actuated by any unworthy motive as the honourable gentleman himself. That gentleman had been employed, for many years, in important public situations, and he was admitted to have discharged the duties of those situations with credit to himself, and advantage to the country. He had, for a considerable time, acted as judge in the island of Trinidad; he was afterwards employed on the inquiry into the state of New South Wales; and, he believed, in both situations his labours were beneficial to the public. Circumstances of ill health had prevented his recent labours from being so expeditious as some gentlemen might wish. He had met with a dangerous accident, which had for a long time confined him to his bed, and had latterly obliged him to use crutches. This might account for the delay. It was, he thought, due to Mr. Bigge, and the other commissioners, to suspend any opinion on their conduct until their reports were before the House (hear). He was as willing as any man that they should be tried by their deeds, when the necessary documents were in readiness; and when that time came, he believed there would be found as little reason to condemn those commissioners as to condemn any other set of persons.

General *Grosvenor* was surprised at the manner in which the honourable member for Aberdeen had disclaimed the petition of Mr. Bishop Burnett. It was true that he did not present that petition; but then he spoke upon it with a warmth, and in terms, which were not called for at the time. As for the

story itself, which he might fairly describe as "Bishop Burnett's History of his own Times," he thought it ought to be disposed of first.

Mr. *Wilmot Horton* said, that as the honourable member for Aberdeen appeared to have misunderstood him, it would be necessary for him to repeat a few of the observations which he had submitted to the House. That honourable member was totally mistaken if he supposed that it was his wish to get rid of this investigation with the half-mangled case, as he termed it, of Bishop Burnett. He had merely mentioned to the House the very great expense which had been imposed on the country in collecting materials for coming to a decision on this case, and he would now pledge himself, that if gentlemen would take the trouble to wade through the report on their table, they would find ample and conclusive evidence to enable them to come to a determination on this case, and it did appear to him to be a most cruel and unjust mode of proceeding that, after the charges which had been first preferred against the noble lord, had been referred for investigation to gentlemen of high character, and every way qualified to conduct such an enquiry, who had reported thereon, the House should now, instead of taking into consideration the full and minute report furnished by those gentlemen, throw it altogether aside, and receive fresh accusations against the noble lord. If the honourable member would show any parliamentary ground for calling for these documents, he would at once either consent to their being furnished, or state his reasons for withholding them; but the honourable member, instead of showing any such grounds, had contented himself with running over a list of names, and calling for evidence as to the cases of a variety of individuals, who had incurred the censure of the government at the Cape, because, forsooth, by possibility, some of these persons might have been ill-treated. No doubt charges had been made by individuals against the noble lord, and there was no wish on the part of the government to throw any unfair obstacle in the way of their being fully investigated. All that was desired was, that they should be brought forward in some intelligible manner, so that the House, in entering upon the consideration of them, might know what it was called upon to investigate and decide upon. The honorable member had said

that it would be requisite to go back to the period when the commission was appointed, for the purpose of investigating the charges against the noble lord. He would remind the honourable member, that the Cape of Good Hope had been annexed to the Crown during the late war ; that Dutch laws and Dutch customs prevailed there. To bring about a change in this respect, and to anglicize the colony, was, of course, a most desirable object ; and it was to this that the commission owed its origin ; for one system of law could not all at once be made to supersede another. This could only be effected progressively, and was a work which required great caution ; and what better means could be devised for carrying it into execution without risk, than intrusting the management of it to a commission composed of gentlemen of high character and known ability ? This measure was not merely confined to the Cape ; it extended to the Mauritius, and to the isle of Ceylon. This was the origin and object of the commission. It was after their appointment that special grievances were referred to their consideration. The honourable member had thought proper to impute partial and improper motives to the government, with regard to the instructions given to the commissioners. It certainly was not the intention of government—indeed it would have been highly absurd in them—to unfurl a standard in a new colony for all the disaffected to rally round. They never intended to set up a mart for grievances ; but if the House would take the trouble to look over the number of cases which had been referred to, and reported on, by these commissioners, no one would regret that more ample powers had not been given them. The noble lord had been placed in a most perplexing and difficult situation. According to the oath he had taken, he was bound to govern the colony according to a law totally different, and very much inferior, to that of his native country. All the defects attendant on this system had been laid to his charge. The commission had been specially appointed for the amelioration of this law ; and any communication from them relating to this object he had no objection to lay on the table ; but when the honourable gentleman called for all the correspondence between these commissioners and the government, relating to various unconnected subjects, he could not but oppose so sweeping a demand.



Mr. *Hume* observed, that he only asked for the correspondence relating to the special cases which had been referred to the commissioners.

Mr. *Wilmot Horton* continued. He could not accede to this indefinite demand. If the honourable member would state a specific case—if he would pledge his character that he had examined into it, and that he thought it required the attention of the House—he would then either consent to produce the papers, or assign such reasons for withholding them as he thought would satisfy the House. But it would be a most inconvenient mode of proceeding in this particular case, and set a very bad precedent, to accumulate and huddle together a host of fresh charges, whilst they threw aside and abandoned those which had been preferred in the first instance, and on which a report had been already made. The honourable member was likewise mistaken as to the reason why a pension had been granted to colonel Bird. It had been granted him for many years of valuable service to the country : and, as to the government not detaining him in this country to give evidence, he would merely observe that it had no power to do so. He was not prepared to produce this officer's correspondence ; for it seemed to him that it would be unjust to lay a private paper, received from colonel Bird, before the House, until his examination taken before the commissioners should also be adduced. With regard to Mr. D'Escury's correspondence, he could see no reason why it ought to be produced, unless it was intended to bring forward some specific charge on that case. Government were fully satisfied upon it, and did not intend to do anything with regard to it. If the honourable member thought something ought to be done, let him bring forward some definite proposition respecting it. With regard to Burnett's case, it had been mentioned four or five times in the House, and represented as a case of the greatest hardship and oppression. That case had been fully investigated, and the House had all the materials before it for coming to a decision upon it. If it should be now thrown aside, and after the high tone which had been assumed respecting it, no one should be found to bring it forward, he for one should certainly consider it as admitted, that it had been preferred without any foundation.

Mr. *Hume* asked, to what particular motion the honourable gentleman objected.

Mr. *Wilmot Horton* replied, that he should resist, in the first place, the production of colonel Bird's examination.

Mr. *Hume* said, that as the report of the commissioners containing it was about to be laid upon the table, he would withdraw that motion. He hoped, however, that the honourable gentleman would consent to lay upon the table the correspondence respecting the special cases against lord Charles Somerset. It was idle to call upon a member to bring forward a special case, when the very means of investigating it were denied. Justice could not be done without the production of the correspondence on the particular charges.

Mr. *Wilmot Horton* contended, that there was not the slightest ground for the presumption that ministers meant to impede the course of justice by refusing the papers. The charges against lord Charles Somerset at present were sweeping and general. Let them be made particular ; and, if sufficient arguments could be offered, nothing should be withheld that could throw light upon the case. Government were not disposed to lay all the documents upon the table, in order that particular charges might be picked out of them.

Mr. Secretary *Peel* said, that if the House should resolve itself into a court to enter upon the consideration of every individual case, although no imputation had been cast on the report of the commissioners, it was impossible to say what papers they might be called upon to print. He would put it to the honourable member, whether it would be at all consistent with that economy of the public money which he so much advocated, to adopt this course. But it would be in the highest degree unjust to the commissioners, whom he believed to be most impartial and able men ; for it would assume, that they had conducted themselves with partiality and injustice, and would consequently lower them in the estimation of the public, and embarrass them in the exercise of their functions. His honourable friend had very fairly offered, if the honourable member would take upon himself to bring forward any specific charge, either to produce the papers relating to it, or to assign a satisfactory reason for refusing them.

Mr. *Hume* said, he must admit that the proposition which had been made by the honourable gentleman was a very reasonable one ; and if he had understood at first that this would have been conceded to, he would not have pressed his motion, which he would now withdraw.

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[Original.]

*Letter from* MESSRS. WM. BORRADAILE SONS & RAVENSHILL *to*  
R. W. HAY, ESQRE.

NO. 34 FENCHURCH STREET, 7th December 1826.

SIR,—We beg respectfully to refer you to the enclosed copy of a letter dated 21st May 1825 from R. W. Horton Esqre. (under whose charge as Under Secretary for the Colonial Department the Colony of the Cape of Good Hope was placed at that period), shewing the liberal manner in which His Majesty's Government met the wishes of the Scottish Community at the Cape upon the subject on which I had the honour of communicating with you on the 5th Inst. It appears that a want of adequate funds has hitherto prevented the building of the Church, but that in the meantime the Colonists are very desirous of obtaining the Ministry of a Clergyman of the *Established Church of Scotland*, not doubting that before long they will be able to erect a suitable place of Worship, and having in the meantime been promised the use of another Church for the performance of Divine Service.

A letter addressed to the Presbytery of Edinburgh, of which we annex a copy, conveyed their wishes on this head, and the letter of the Revd. Dr. Brunton by authority of that Revd. Body shews that it is merely a doubt as to their *Right of Presentation* which prevents their complying with the request ; may we beg therefore to be favoured with a written communication on this subject, which we may forward to Edinburgh to obviate any misunderstanding.

We beg respectfully at the same time to submit to His Majesty's Government the propriety of granting a free passage to the Colony for himself and family to the Clergyman so appointed, and though very loath to trespass on the Liberality

of Government, we feel it our duty likewise to urge the request made by the Committee (as per minute enclosed) to have the salary allowed by Government encreased to £200 per annum, as the narrow means of the Scottish Community at the Cape together with what voluntary Subscriptions are likely to be made amongst their countrymen in Europe and India will scarcely be sufficient to carry into effect their wishes without this additional grant. We are &c.

(Signed) W. BORRADAILE SONS & RAVENSHILL.

[Enclosure in the above.]

EDINBURGH COLLEGE, 3rd November 1826.

GENTLEMEN,—I have to regret that the consideration of the letter of your respected constituents at Cape Town to the Presbytery of Edinburgh was accidentally delayed till their last meeting. It was then referred to a Committee, in whose name I have now the honour of addressing you.

The Presbytery are most willing to comply with the request of the Colonists ; but they themselves seem to wish that we should, before naming a Minister for them, receive some communication from you or from Mr. Macdonald, as to the intercourse which you have held with His Majesty's Government on the subject.

Nor would we wish to exercise the right of appointment while there is the slightest chance that Government might wish it to be vested in the Crown. As soon as you enable me to report satisfactorily on these preliminary points to the Presbytery, you may rest assured that we will faithfully and zealously fulfil any trust which may be committed to us in the matter.

The next Meeting of Presbytery is on Wednesday 29th current. I have &c.

(Signed) ALEXR. BRUNTON.

Messrs. Borradaile Sons & Ravenshill.

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[Original.]

*Letter from MAJOR-GENERAL BOURKE to EARL BATHURST.*GOVERNMENT HOUSE, CAPE TOWN, *December 8th 1826.*

MY LORD,—With reference to your Lordship's despatch of the 25th July, No. 290, I have the honor to state that I have not been able to discover any regulation of the Government of this Colony whereby superannuation allowances may be claimed by Persons who have served in the Executive or Judicial Departments; but numerous precedents are to be found of such allowances being made in favor of meritorious Individuals. I have &c.

(Signed) RICHD. BOURKE.

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[Office Copy.]*Letter from EARL BATHURST to SIR RUFANE DONKIN.*DOWNING STREET, 8 *December 1826.*

SIR,—Mr. Hay has communicated to me that the object for which you have requested an interview with me at this moment is to express your hope that if my opinion of your services at the Cape remains the same as it was at the time I addressed to you my letter of the 28th September 1821, I should not be indisposed to shew by some mark of favor that your conduct while you administered the Government there, was satisfactory to the Department under which you were employed.

When I consider the temporary nature of your appointment there and for how short a time you held the Cape Government, I do not feel that I am called upon to supply any further testimony in regard to the light in which your services were viewed by His Majesty's Government, nor that I can with justice be expected to convey to you any other mark of His Majesty's approbation. I have &c.

(Signed) BATHURST.

[Copy.]

*Hansard's Parliamentary Debates.*

8 December 1826.

## Cape of Good Hope—Conduct of Lord Charles Somerset.

Mr. *Brougham* said, he had been informed, that in the discussion which had taken place last night respecting the Cape of Good Hope, a question had arisen as to the course which he intended to pursue with regard to a petition which he had formerly presented, complaining of the misconduct of the governor of that colony. That petition he had presented two sessions ago, on behalf of Mr. Bishop Burnett; and he understood it was now said, that the report of the commissioners had dealt with the subject matter of that petition, and completely exhausted it. He had not read that report with any great attention; but in the cursory perusal he had given it, he did not find that it referred at all to those parts of the petition to which his notice had been more particularly called. In presenting that petition, he had said, that there were some matters stated in it of so extraordinary a nature, that he could not believe them to be facts; but that if they were facts, it was impossible for the House not to take the earliest opportunity of investigating them most rigorously. The matters to which he referred did not form what was more particularly called the case of Mr. Bishop Burnett. That individual had brought forward, in his petition, collateral charges against lord Charles Somerset, of far greater importance than those which formed the substance of his own case, and to those charges his own attention had been forcibly attracted. The report of the commissioners might have thrown light on those accusations; but if it had not, there was a strong necessity that an ample investigation of them should be instituted. He had understood that lord Charles was coming home, and indeed had arrived, to meet the charges preferred against him. He was glad to hear that fact, because the case of Bishop Burnett was much subordinate to the charges which his petition opened against the noble lord. He would take the earliest opportunity of examining the report more accurately than his avocations had hitherto

enabled him to do. The charges to which he alluded might not be noticed in the first report of the commissioners, which was already on the table of the House ; and yet might be made subject of inquiry in their second report, which would be forthcoming immediately. If they were not noticed in either one or the other—if they did not meet with a satisfactory refutation from the noble lord whose conduct was so strongly implicated by them—he should think it still necessary for the House to institute a rigorous inquiry into their truth or falsehood.

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[Original.]

*Letter from MAJOR-GENERAL BOURKE to EARL BATHURST.*

GOVERNMENT HOUSE, CAPE TOWN, *December 9th 1826.*

MY LORD,—I have the honor to inform your Lordship that having received a memorial from an Inhabitant of the District of Beaufort accusing Mr. J. Baird, the Deputy Landdrost, of oppression and corruption in the disposal of certain lands in that District, I caused the complaint to be strictly investigated, and the result having placed beyond all doubt the impropriety of Mr. Baird's conduct, I felt it my duty to remove him from his employment, and I have named Mr. Harding, for some time Government Resident at Plettenberg's Bay, to succeed to the charge of the Deputy Drostdy. I have named Captain Harker (a Gentleman who in the last year laid before your Lordship his distressed situation) to replace Mr. Harding.

I am sorry further to have to report a case of extreme misconduct on the part of Lieutenant Humphrys, Commandant of the Convict Depot at Robben Island. For some time past this Officer had given me the greatest reason to be dissatisfied with him, and lately upon an inquiry which I caused to be held before the Sitting Commissioner, being convicted of having sent from the Island the overseer and some of the convicts to sell fish on his private account in Cape Town, I removed him from his command, and have nominated to it Lieutenant Pedder, R.N., who lost his situation of Deputy Port Captain on the recent appointment of Lieutenant Bance, and whom your Lordship in your despatch of the 22nd April last

recommended for employment when an opportunity should occur.

These appointments will I hope meet your Lordship's approbation. I have &c.

(Signed) RICHD. BOURKE.

[Original.]

*Letter from MAJOR-GENERAL BOURKE to EARL BATHURST.*

GOVERNMENT HOUSE, CAPE TOWN, 9th December 1826.

MY LORD,—With reference to the instructions contained in your Lordship's despatches of the 9th of May 1815 and 24th June 1823, I have the honor to forward to your Lordship Returns of all Grants of Land on Perpetual Quit Rent and in Freehold, made in this Colony from the 1st January to 31st December 1825, together with a statement of the extent of new ground brought into cultivation in the different Districts of the Colony during the same period. I have &c.

(Signed) RICHD. BOURKE.

[Enclosure 1 in the above.]

*Grants on Perpetual Quitrent.*

District of Somerset . . .	2 Farms.
District of the Cape . . .	20 Farms and smaller Plots of Land.
District of Simon's Town . . .	2 Plots of Land.
District of Stellenbosch . . .	13 Farms and smaller Plots of Land.
District of Swellendam . . .	35 „ „
District of Uitenhage . . .	8 „ „
District of Worcester . . .	14 „ „
District of Albany . . .	8 „ „

[Enclosure 2 in the above.]

Return showing the extent of the new ground brought into cultivation in the undermentioned Districts from 1st January to 31st December 1825 inclusive.

District of the Cape . . . . .	380 morgen.
„ Simon's Town . . . . .	12 „
„ Stellenbosch . . . . .	391 „



District of Swellendam . . . . .	20 morgen.
„ Uitenhage . . . . .	185 „
„ Graaff Reinet . . . . .	—
„ Worcester . . . . .	90 „
„ George . . . . .	—
„ Albany . . . . .	—
„ Somerset . . . . .	825 „

A morgen is generally reckoned equal to 2 acres, but the true proportion is considered to be  $49 \frac{7}{100}$  morgen to 100 English acres.

[Enclosure 3 in the above.]

*Grants in Freehold.*

Residency of Simon's Town . . . . .	1 Building Allotment.
District of Swellendam . . . . .	1 Farm and 1 small Plot of Land.
District of Graaff Reinet . . . . .	23 Building Allotments.
District of Worcester . . . . .	2 Building Allotments.
District of Albany . . . . .	88 Building Allotments.
District of Somerset . . . . .	87 Building Allotments.

(Signed) CHARLES D'ESCURY.  
Inspector of Government Lands and Buildings.

[Office Copy.]

*Letter from R. W. HAY, ESQRE., to LORD CHARLES SOMERSET.*

DOWNING STREET, 9th December 1826.

MY LORD,—I have been desired by Lord Bathurst to request that your Lordship will have the goodness to state to him the circumstances under which the Commandant of Port Elizabeth receives an allowance of £90 per annum.

The object which his Lordship has in view in making this enquiry is to ascertain whether that allowance is granted to the Commandant in his Military Character, and as additional Military Pay, or whether it is issued to him as Civil Salary, in remuneration for the Civil Services which he renders to the Colonial Government in any capacity separate from his Military Character. I have &c.

(Signed) R. W. HAY.

[Office Copy.]

*Letter from R. W. HAY, ESQRE., to SIR RUFANE DONKIN.*

DOWNING STREET, 9 December 1826.

SIR,—I have laid before Earl Bathurst your letter of the 28th ultimo in answer to mine of the 29th of April, in explanation of the grounds upon which you were induced during your temporary administration of the Cape Government, to interfere with the judicial proceedings of a District Court which was appointed to try Mr. Hugh Huntley for a libel on the Landdrost of Uitenhage.

His Lordship desires me to acquaint you in reply that he does not consider the explanation which you have given of your conduct on this occasion to be altogether satisfactory, nor does his Lordship think that you have succeeded in establishing that your interference with the proceedings of the Court was justified by the Regulations of the Crown Trial.

But as his Lordship would be unwilling to pronounce any definitive opinion upon this subject without giving you an opportunity of informing yourself more accurately of the particular circumstances of the case, I am directed to add that his Lordship will be ready to instruct the Cape Government to send home for your consideration any documents which you may consider essential with a view to the due understanding of the merits of the question. I have &c.

(Signed) R. W. HAY.

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[Office Copy.]

*Letter from R. W. HAY, ESQRE., to W. HILL, ESQRE.*

DOWNING STREET, 9 December 1826.

SIR,—Having laid before Earl Bathurst your letter of the 2nd instant, I am directed by his Lordship to acquaint you for the information of the Lords Commissioners of His Majesty's Treasury that the Commissioners of Inquiry at the Cape of Good Hope have not yet transmitted their report upon the condition of the Government Slaves in that Colony. I am &c.

(Signed) R. W. HAY.

[Office Copy.]

*Letter from R. W. HAY, ESQRE., to MESSRS. BORRADAILE SON  
& RAVENSHILL.*

DOWNING STREET, 9 December 1826.

GENTLEMEN,—Having laid before Earl Bathurst your letter of the 7th Instant, I have received his Lordship's directions to acquaint you in reply that upon your submitting to him the name of any Minister of the Scottish Church who shall, with the approbation of the Presbytery of Edinburgh, have been selected to proceed to the Cape of Good Hope for the purpose of officiating as Minister of the Church to be built there by the Scottish Community, arrangements will be made for providing that Gentleman with a Passage to the Colony; but I am desired to add that it is not in his Lordship's power to encourage any expectation that a further allowance out of the funds of the Colony will be added to the Minister's Stipend. I am &c.

(Signed) R. W. HAY.

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[Office Copy.]

*Letter from R. W. HAY, ESQRE., to LIEUTENANT WHITE.*

DOWNING STREET, 9 December 1826.

SIR,—Having laid before Earl Bathurst your letter of the 7th Instant, I am directed by his Lordship to acquaint you in reply that your application to be appointed to a vacant Surveyorship in the district of Albany will be forwarded to the Cape Government, with instructions to the Lieutenant Governor to promote your wishes if an opportunity should offer, and provided he should not be aware of any objections to your appointment. I am &c.

(Signed) R. W. HAY.

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[Office Copy.]

*Letter from R. W. HAY, ESQRE., to MR. D. EDWARDS.*

DOWNING STREET, 9 December 1826.

SIR,—With reference to my letter of the 5th of October 1825 in which I acquainted you that in consideration of the representations which you had made to Earl Bathurst on behalf of 4 Children of a Mr. and Mrs. Leader, who by the death of their parents had been left destitute in the Colony of the Cape of Good Hope, his Lordship had given directions that a Passage should be provided for them to this Country at the public expense, I am directed by his Lordship to acquaint you that it appears from a letter which has been received from the Naval Officer at the Cape of Good Hope, that after various enquiries he had ascertained that of the four children alluded to, two had already returned to this Country, one had died, and that the other had been settled at Cape Town with a Tradesman.

I am &c.

(Signed) R. W. HAY.

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[Original.]

*Letter from MR. BENJAMIN WILMOT to R. W. HAY, ESQRE.*

20 DAVIES STREET,  
BERKLEY SQUARE, 9th December 1826.

SIR,—The verbal information I received this morning from you, that my Claims had been compromised with my Brother in Africa would have been very pleasing to me as implying that my statement of Claims was worthy of Credit, had such intimation been unaccompanied with a Charge that I had been informed so by my Brother, thereby intimating that I sought to impose on the Colonial Office by the renewal of them ; but as I really have not had any communication whatever on that subject, I again request to be informed of the terms of that compromise instead of being referred back to the Cape to obtain such information personally. I have &c.

(Signed) BENJAMIN WILMOT.



[Office Copy.]

*Letter from* EARL BATHURST *to* MAJOR GENERAL BOURKE.

DOWNING STREET, LONDON, 10 December 1826.

SIR,—His Majesty's Commissioners of Enquiry having transmitted to me the enclosed Memorial from Mr. James Rose Innes, teacher of the English Seminary at Uitenhage, praying that upon the completion of his present engagement with the Government of the Cape, he may be encouraged to complete his theological studies in Scotland with the view of qualifying himself to be appointed to a vacant Ministry in the Colony, I have to acquaint you that if Mr. Innes shall upon the completion of his present engagement, produce to you proper Certificates of having faithfully and zealously performed it, you are authorized to hold out to him the expectation that he will, after he shall have duly qualified himself for the Ministry of the Church, be appointed to a Clerical situation on the Establishment of the Colony. I have &c.

(Signed) BATHURST.

[Office Copy.]

*Letter from* EARL BATHURST *to* MAJOR GENERAL BOURKE.

DOWNING STREET, LONDON, 11 December 1826.

SIR,—I have received an application from Mr. T. C. White who is now about to return to the Cape of Good Hope praying to be appointed to a vacant Surveyorship in the District of Albany ; and I have given him to understand that I would transmit his application to you with a view to its being taken into consideration when a favorable opportunity should offer. But before you appoint Mr. White to any Surveyorship which may fall vacant, you will satisfy yourself that there are no circumstances in his conduct, while previously employed on a survey of the frontier, which render him undeserving of the favor of Government ; and you will require a statement to that effect from Major Holloway the Commanding Royal Engineer. I am &c.

(Signed) BATHURST.

[Original.]

*Letter from LORD CHARLES SOMERSET to R. W. HAY, ESQRE.*

48 LOWER GROSVENOR STREET,  
LONDON, 11th December 1826.

SIR,—I have the honor to acknowledge the receipt of your letter of the 9th instant conveying to me Lord Bathurst's request to be informed of the circumstances under which the Commandant at Port Elizabeth receives an allowance of £90 per annum and whether that allowance is granted to him in a Military or Civil capacity.

I do myself therefore the honor to inform you that I consider the Salary enjoyed by Captain Evatt, Government Resident and Commandant at Port Elizabeth, is given to him in the former capacity solely and that he receives no allowance as Military Commandant in addition to his retired pay. The Government Resident at the Kowie receives a similar salary, and not being a Military man, has no Military authority. Previous to 1820 the Salary of the Government Resident and Commandant at Port Elizabeth was only 500 Rds. (£37 10s.) per annum, but a contiguous Farm called Chelsea was attached to the Situation. At that period (being during my absence in England) the Acting Governor disposed of this Farm and raised the Government Resident's Salary from 500 Rds. to 1200 Rds. (£37 10s. to £90) per annum.

The Population of Port Elizabeth having subsequently increased, it became absolutely necessary that a Magisterial power should be established at that place, and on the 8th of April 1825 a Proclamation was issued to that effect, to which I beg to refer you. I have &c.

(Signed) CHARLES HENRY SOMERSET.

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[Original.]

*Letter from D. M. PERCEVAL, ESQRE., to R. W. HAY, ESQRE.*

CAPE TOWN, December 11th 1826.

MY DEAR SIR,—I received your letter of the 27th of May last on the 19th ultimo by the *Susannah*, and I beg to return you

my best thanks for the kind mode which you adopted for conveying to me Lord Bathurst's opinion and your own upon the subject of the mode of preparing and transmitting the minutes of Council. I am afraid you think that I relied too much upon my own judgment in choosing the manner of doing so in November 1825 and March last ; but I beg to assure you that this was not the case. There was a good deal of conversation upon the subject when I commenced my duties, and it was the opinion of Lord Charles Somerset and of the Council generally that the method which I wished to introduce would be the most advantageous, and *in fact* the most accurate, for the inconvenience which attended the insertion and reperusal of long documents on the *face* of the Minutes had been felt, and had already occasioned the entire omission of some, the dates and descriptions of which alone were inserted—(the papers laid before Council on the subject of the Commissariat Stores, on the 28th of May 1825, and the long correspondence between the Treasury and the Commissariat on the change of the Currency, with the subsequent Memorials, both of them abounding in repetitions, which occupy so large a portion of the first volume)—may be instanced, the latter to shew the inutility, the former to prove the inaccuracy of the old method. For, as no appendix was then contemplated, it is obvious that the papers referred to would never have appeared at all, if I had not made the change. It happens indeed that they are of very little consequence, but the system under which the omission occurred can hardly be said to promise security for a strictly accurate record.

With the concurrence of the Lieutenant Governor and the Council, to whom I took an opportunity of communicating your observations, I have now devised a slight improvement upon my first plan, by which I flatter myself it will furnish that desideratum. This will consist of a written certificate, to be signed by the Clerk of the Council, at the close of the Appendix, stating that it contains true copies of all and every paper that has been read at the Council Board during the period to which the Appendix refers. It was the general opinion of Council that the new method offered great advantages in the facility of reference, and that a recurrence to the old one would now be highly inconvenient, especially as a

second volume had already been prepared according to my system and despatched to England.

I shall be careful to observe your other directions, especially to certify the accuracy of the Minutes, the necessity of which never struck me before from the following cause: Those which are sent home are in point of fact mostly the originals read at the Council Board, which are subsequently copied into the Council Book. For if the Original Minutes were written there, the Book would be disfigured, in the event of any alteration being thought necessary. As this is seldom the case I preserve the leaves, and bind them up at the close of the six months. My own consciousness of their accuracy being therefore perfect, it never occurred to me that other persons, who could not be aware of this, might possibly doubt it.

For addressing myself officially to your Department I must plead ignorance as an excuse. Sir Richard Plasket observed to me at the time of my sending the first volume, that I should write to explain the reason of the altered form which I had introduced, and I suppose that in the hurry of business at that time he forgot to tell me that the letter ought properly to be addressed to the Colonial Government. As no question had arisen upon that point, you will have seen that I made the same mistake in transmitting the second volume. But it is proper to observe that on both occasions, in delaying the transmission beyond the six months specified in the King's instructions, I acted in concurrence with Sir Richard's opinion.

I have been very busy in my office ever since the *Susannah* arrived, owing to the long discussion about the Slave Tax, the result of which will go home to-morrow. We were all rather surprised at the very weak defence of the measure which its proposer made. Not a soul in the Council seemed at all to approve of it, under any modifications, indeed, I think the arguments against it quite conclusive, at all events now. But there is another consideration besides all those mentioned in the Minutes which strikes me as being very likely to endure longer than any of them. As long as this is a new country the great object of policy must be the extension of cultivation, and no cultivation in such a country, especially



that of wine, which is our best hope bad as it is, can ever make any return for two or three years, wine I believe takes four or five. If therefore a tax was laid upon slaves, waggons, and so forth, it would really be just as much as to say to anybody who had scraped together a little capital, or (what is more likely to be the case here) had raised a little cash by borrowing,—you must borrow or raise, how you can,—3, 4 or 5 years taxes upon the stock you have prepared to begin with, in addition, before you presume to attempt turning any part of our deserts into productive land. Nobody can doubt for an instant that this would be a much more real impediment to cultivation than the trifling inland duty, which Mr. Bigge seems to hate so, because it's called, absurdly enough, a tithe. We all know that corn land is sometimes kept in pasture to spite the rector in England; but why anything the least resembling this should take place at the Cape, because the duty is called by the same name, is past my judgment.

Our harvests this year are expected to turn out rather better than of late, which is quite Providential, for the poor farmers are really reduced almost universally to their last bushel. Government was obliged to distribute seed corn to a great many, the vintage is expected to be deficient, which is perhaps also in one sense a blessing, as the stock in hand is so large, and so bad, that nothing but a scarcity can hope to get it off. The people seem all abroad, expecting some change or other, and nothing seems to prosper except Mr. Greig's newspaper, which of course is best off when there is plenty to grumble about. We hope great things from Mr. Reveley, who tells us that he is quite sure of making excellent bricks here to begin with; and great service he will do thereby, if he keep his word. The General is very much liked, and everything goes on very pleasantly. We shall be looking out for Lord Charles in a month or two, since Parliament is to meet so soon. Will you have the kindness to present my best compliments and kind remembrances to Lord and Lady Bathurst, and to give my kind regards to Mr. James Stephens. I hope he received my last letter, in which I explained the cause of a little *démêlé* which I have had with Greig's paper, which I was afraid would look rather odd in England, as the state of society is so different there. I shall certainly take advantage

of your kind permission to write to you occasionally. I know you must have very little time for private correspondence.

Yours very sincerely,

(Signed) D. M. PERCEVAL.

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[Office Copy.]

*Letter from* EARL BATHURST *to* MAJOR GENERAL BOURKE.

DOWNING STREET, LONDON, 12 *December* 1826.

SIR,—I have the honor to acknowledge the receipt of your letter marked private and separate, of the 24th October last, in which you recommend Captain Bird as a Candidate for employment under the Government of the Cape.

I approve the precaution which you have observed not to appoint Captain Bird to a Colonial Situation; and I regret to have to add that the strong party feeling which Lieutenant Colonel Bird has evinced since his removal from the service of the Colonial Government, precludes me from holding out any expectation of employment to his Son at present. I have &c.

(Signed) BATHURST.

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[Original.]

*Letter from* LORD CHARLES SOMERSET *to* R. W. HAY, ESQRE.

48 LOWER GROSVENOR STREET,  
LONDON, 12th *December* 1826.

SIR,—Adverting to my letter to you of yesterday's date, relative to the Salary of the Government Resident and Commandant at Port Elizabeth, I beg to acquaint you for Earl Bathurst's information, that upon reference to the Accounts of the Cape, I find that Captain Evatt's pay has been erroneously included in the List of Officers belonging to the Staff at the Cape of Good Hope who, according to His Lordship's instructions under date 30th April 1825, were to receive their

pay and allowances from the Military Chest in lieu of from the Colonial Treasury, the same being to be refunded quarterly to the Military Chest by the Colonial Treasury. And as this circumstance may perhaps have given rise to the enquiry you have made upon the subject in your letter of the 9th, I feel it incumbent upon me to apprise you of the Error.

I have &c.

(Signed) CHARLES HENRY SOMERSET.

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[Original.]

*Letter from* GEORGE THOMPSON, ESQRE., *to* EARL BATHURST.

34 FENCHURCH STREET, *December 12th 1826.*

MY LORD,—On my return from the Continent yesterday I had the honor of perusing your Lordship's valued favour of the 21st ultimo granting me permission to dedicate my Excursions in Southern Africa to your Lordship; for this honour I beg leave to return you my sincere thanks.

I have already assured your Lordship that my work shall contain nothing which in any way might have unpleasant reference to Colonial Politics. I have &c.

(Signed) GEO. THOMPSON.

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[Original.]

*Letter from* MR. JOHN FOURNIER *to* R. W. HAY, ESQRE.

4 UPPER EBURY STREET, CHELSEA, *12th December 1826.*

SIR,—With reference to what has taken place concerning my Petition to Earl Bathurst for indemnification for certain losses which deprived me of my only means of providing for myself, and which were occasioned through the default of the Colonial Authorities of the Cape of Good Hope, inasmuch as they suffered a Merchant to deprive me of those rights and emoluments which had been guaranteed to me. And in

explanation to his Lordship's opinion that I should not have parted with the property without waiting the final decision of Mr. Hayward, which did not take place till nearly five years after settlement had been made.

I beg leave to state that I embarked in the undertaking fully and completely prepared to go through with it under such regulations as I placed myself and as specified in the Circular of 1819: "That the land would be defined on our arrival and the title-deeds given to it at the expiration of three years." Though it may be considered that the definition did not imply the subdivision of the grants, yet in my individual case, where the whole of my party had abandoned the place and strangers were allowed to possess themselves of it, I humbly conceive that it should have been done, rather than that my rights should have been suffered to be wrested from me, solely on the ground that I was unable to prove them for the want of such definition, which His Excellency the Governor would not even grant his sanction to its being made, though repeatedly applied to. In consequence I was only induced to persevere in my reliance that at the expiration of three years the title deeds to the whole grant would have been given agreeable to the guarantee, which was the only resource left me of obtaining my own redress through the Court of Heemraden. If his Lordship should consider that I individually had not a sufficient claim as being the only remnant of the party (Messrs. Wilkinson, Morton & Co.) to whom the grant was given, I beg leave to observe had they been given to one of the strangers, I would even then, I could even then have had my redress by demanding my rights of the holder.

Therefore since I did wait nearly five years under great disadvantages, and nearly a year and a half from the period the title to the land should have been given, and still without any definition, I trusted his Lordship would not have refused my prayer, solely on the grounds that I did not wait a longer time for a third decision, the two former being tampered with, because I was unable to do so from the many injuries I had sustained, which are specified in my Statement. And as further proof that I was obliged to part with it while in an undefined state and subjected to all manner of aggressions, it was considerably to my own disadvantage, a fact well known



to the Commissioner Mr. Hayward and can also be avouched in this country.

As the evils, Sir, which reduced me to such an extremity originated entirely from the circumstance that Lord C. Somerset and the Authorities under him would not grant me the means of maintaining my rights, and did not fulfil those promises given on the faith of the Colonial Department, which alone could have enabled me to maintain them myself, I applied to Earl Bathurst for a compensation for my losses, in the confiding belief that his Lordship would not suffer any one under his protection to be injured or wronged with impunity, and more especially the non-performance of a pledge guaranteed in his Lordship's name.

But as it appears that no pecuniary compensation can be given on the ground that I did not wait a longer period than nearly five years for redress, and that no situation can be afforded me as a relief to my distress, I am, Sir, now compelled by necessity to request you will be pleased to inform me whether a grant of land can be bestowed on me under such favourable circumstances as the severity of my case may be deemed deserving of, and in one of the new Colonies which it is in the contemplation of the Government shortly to have located. I have &c.

(Signed) JOHN FOURNIER.

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[Office Copy.]

*Letter from* EARL BATHURST *to* MAJOR GENERAL BOURKE.

DOWNING STREET, LONDON, 14 December 1826.

SIR,—I have received a communication from His Majesty's Commissioners of Enquiry upon the subject of a stipend which the Governor had originally intended to assign to the officiating clergyman of Wynberg, and which the Commissioners recommend should be issued to the Reverend Mr. Wright the Church Missionary who has recently officiated at Wynberg; and I think it necessary to apprise you that it is not in my intention to authorize the issue of any Stipend to Mr. Wright.

I am &c.

(Signed) BATHURST.

[Copy.]

Ordinance No. 27. (Signed) RICHD. BOURKE.

Ordinance of His Honor the Lieutenant-Governor in Council,  
For postponing the exclusive Adoption of the English  
Language in all the Courts of Justice in this Colony.

Whereas it is expedient to postpone the period at which the use of the English Language is to be exclusively adopted in all the Courts of Justice in this Colony, until such Arrangements shall be made as may facilitate the introduction of this beneficial measure, and render its utility at once certain and permanent; and whereas many of these Arrangements have, from unavoidable causes, been delayed, and are yet wanting : Be it therefore enacted, That so much of the Proclamation of the 5th day of July, 1822, as directs that the English Language shall be used in all Judicial Acts and Proceedings of the several Courts of Justice in this Colony, from and after the 1st day of January, 1827, shall be, and is hereby repealed, and declared void and of no effect ; and that it shall and may be lawful to continue to use the Dutch Language in the Proceedings of those Courts where it is now used ; any thing in the said Proclamation of the 5th day of July, 1822, to the contrary notwithstanding.

II. Provided always, and be it hereby enacted, That it shall and may be lawful for the Governor of this Colony, for the time being, by Proclamation to be made and published at any time after the passing of this Ordinance, to direct and order, that the English Language be used in the Judicial Acts and Proceedings of all or any of the Courts of Justice in this Colony, at such subsequent period as to him shall seem fit.

God save the King !

Given at the Cape of Good Hope, this 13th Day of December, 1826.

By Command of His Honor the Lieutenant-Governor,

(Signed) R. PLASKET, Secretary to Government.

By Order of the Council,

(Signed) D. M. PERCEVAL, Clerk of the Council.

[Original.]

*Letter from R. BYHAM, ESQRE., to R. W. HAY, ESQRE.*

OFFICE OF ORDNANCE, 13th December 1826.

SIR,—I am commanded to acknowledge the receipt of your letter under date the 7th ultimo, with an accompanying Dispatch and other papers from Major General Bourke, proposing that the Ordnance Department should yield to the Government of the Colony of the Cape of Good Hope the Ground and Buildings at Wynberg, for the purposes therein described; and I have the honor to request you will lay before Earl Bathurst the following observations which the Master General and Board have made upon the subject.

Wynberg offers the only ridge of anything like defensible ground which is to be met with in the otherwise flat and sandy plain between Cape Town and Simon's Bay; the position, which is extensive, is considered to possess further advantages in a Military point of view, and it is moreover a healthy situation for Troops, Regiments arriving from England having been sent there, in the first instance, to recover the effects of a long voyage, and to become seasoned to a warm climate.

It is very true, as observed by Major General Bourke, that the construction of the proposed village would, in all probability, not weaken the position; but if circumstances should hereafter require a larger garrison than the present Peace Establishment to be kept at the Cape of Good Hope, Wynberg would unquestionably be the spot where a Barrack would be required, from its healthy character and from its central situation. It appears from General Bourke's letter that, after having once already sold it, Government found it necessary to repurchase the ground in question. What has happened once may occur again; and if a Barrack should hereafter be required, and in all probability it will, at Wynberg, the Ordnance would have to buy at a very high price what they now are offered only a trifling sum for.

It appears that the Deputy Adjutant General and Deputy Quarter Master General occupy two of the existing Buildings at Wynberg. If these officers are removed, they will be

entitled, of course, to their Lodging Money, or new Quarters must be constructed for them in some other situation. As the whole of the Buildings on the ground are only valued at £1639, and as new Quarters could not be constructed for that sum, it is evident the proposed arrangement would not benefit His Majesty's Service. The Colonial Treasury might be the better for it, but the Ordnance Department would have to incur additional expence.

It is further remarked, with respect to the inconvenience of these Staff Officers being quartered so far from the Head Quarters at Cape Town (about 8 miles), that Newlands, which is about two miles from Wynberg, is the proper Military Head Quarters, owing to which circumstance the Staff have been stationed at Wynberg. At the present moment, whilst the Civil and Military authority are combined in the same person, the Civil business must unquestionably call the general Officer exercising these functions more frequently to Cape Town than otherwise would be the case, and a certain degree of inconvenience be experienced by the heads of the Military Departments residing at Wynberg in consequence, but it is conceived that, considering the reduced strength of the Cape of Good Hope garrison, this evil may easily be remedied, to a certain degree at any rate, by allotting to the Officers in question apartments in the Castle of Good Hope, while Head Quarters may be in Cape Town, there appearing to be at this time ample means of affording such accommodation.

Under the view, therefore, which the Master General and Board take of the several circumstances connected with the position at Wynberg, they have decided that it would be utterly inexpedient to part with the Ordnance Buildings, and they beg to suggest that the Colonial Government of the Cape should be instructed not to part with the land at that Station.

I have &c.

(Signed) R. BYHAM, Secretary.

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[Original.]

*Letter from MR. THOMAS WILLSON to EARL BATHURST.*

BELMONT COTTAGE, STOCKWELL, 13 December 1826.

MY LORD,—I cannot believe that your Lordship will entertain any rivetted displeasure towards me for simply exercising the feelings which ought to influence my conduct as the Father of a family, the bounden duty of a faithful Steward towards those Children which Providence assigns to my protection ; this alone prompted me to appeal to His Majesty, to arrest the progress of those evils which have attended the last seven years of my life consequent upon my ill-fated Enterprise to South Africa : I am confident that you will acquit me of any disrespectful feeling toward Your Lordship or the Government, whose true and faithful Servant I shall ever hold myself under any circumstances affecting the Interests of the State : I can however very ill afford to sustain the heavy sacrifice of the Time, Money, and Estate, which it has hitherto been my bitterness to bear, and now pleads my apology for the warmth of those Emotions which I could not control : I can only hope that the same inflexible sense of duty which has guided me in this affair may in future be made available to more important objects of utility. Anxiously waiting your Lordship's pleasure with unalterable respect and devotion, I have &c.

(Signed) THOS. WILLSON.

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[Office Copy.]

*Letter from* EARL BATHURST *to* MAJOR GENERAL BOURKE.

DOWNING STREET, LONDON, 14 *December* 1826.

SIR,—I have the honor to acknowledge the receipt of your dispatches of the numbers noted in the margin. [Nos. 55, 77 and 79.]

I desire that measures may be taken forthwith for placing the Government House in Cape Town in a creditable state of repair; and I trust that Mr. Revely's arrival in the Colony will enable you to accomplish this object without much exceeding the original estimate for the repair of that building.

As it is not in my intention to authorize any further expenditure to be incurred in the repair of Newlands, and as it appears from the report enclosed in your dispatch No. 77, that the Building is in such a state of dilapidation as to threaten falling in, you will lose no time in reporting to me your opinion, after consultation with Mr. Revely, on the most advantageous mode of disposing of this place altogether for the benefit of the public Service, whether by pulling down the house, and disposing of the materials, or by putting the whole up to sale in its present state. The Lands adjoining this Establishment you will direct to be surveyed, and you will transmit an estimate of their value, together with your opinion as to the manner in which it might be proper to dispose of them also.

I shall take immediate steps for apprizing the Governor that this measure is in contemplation, and that it will be necessary for him to make arrangements for removing his effects from Newlands, whenever I shall be enabled to issue the final instruction on the subject, until which time you will not feel yourself at liberty to make any essential changes in the state of the Establishment.

This arrangement will of course render it necessary that the Gardens attached to the Government House in Cape Town should be reserved for the Governor's use; and it will be time to consider of the propriety of converting part of these grounds into a Botanical Garden when the finances of the Colony shall be in a more prosperous condition.

With respect to Camp's Bay House, I could not under any circumstances have sanctioned the appropriation of that building for the use of the Leper Institution ; and I am glad that since you proposed that measure you have become aware of the serious objections which would attach to any arrangement for bringing the inmates of that hospital into the vicinity of a town. There are other objections which I shall not now notice to the alienation of Camp's Bay House ; and I desire, therefore, that it may be reserved for the use of the Governor ; upon the understanding that it shall be kept in a decent state of repair, and only so far enlarged as may be necessary to render it a fit summer retreat for the Governor and his family, taking care that the annual expence of repair does not exceed a moderate sum.

I have further to desire that the Farming Establishment of Groote Post may be broken up. The stock must be sold by public Auction, after due notice thereof shall have been given to the farmers of the several Districts. And you will let the Lands on lease, or reserve them for sale when an advantageous opportunity shall offer for that purpose.

With respect to the establishment at Buckbay, I should hardly have been prepared to authorize you to abandon that Establishment, if you had not informed me that you were about to remove the Convicts who were employed there in burning lime, from which I conclude that there will be no difficulty in obtaining lime elsewhere. I am &c.

(Signed) BATHURST.

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[Original.]

*Letter from MAJOR-GENERAL BOURKE to EARL BATHURST.*

GOVERNMENT HOUSE, CAPE TOWN, 14th December 1826.

MY LORD,—With reference to your Lordship's despatch to His Excellency Lord C. H. Somerset (Circular) dated 5th October 1825, I have the honor herewith to transmit in compliance with your Lordship's directions a Return of all Civil and other Officers under this Government who up to the present period have been accommodated with Houses or Lodgings at the public expence, showing also the value of the Houses where they are the property of the Crown and the amount of Rents paid for them where they are hired from individuals, and stating the particular authority under which such accommodation has been granted to the persons who enjoy it.

I have &c.

(Signed)      RICHD. BOURKE.



[Enclosure in the above.]

*Return of all Civil and other Officers at the Cape of Good Hope who at the present period are accommodated with houses or lodgings at the public expense.*

Officers.	Value of House.	Rent allowed per annum.	Authority for the Accommodation.	Remarks.
<i>Capetown.</i>				
The Governor . . . .	£10,000	—	H.M.'s Government	Cottage at Camp's Bay.
" . . . .	2,000	—	—	
Master of the Grammar School	1,200	—	Colonial Government	
Port Captain . . . .	350	—	"	
Director of the Slave Lodge . .	400	—	"	
Colonial Secretary . . . .	—	150	Secretary of State	
Colonial Chaplain . . . .	—	54	Colonial Government	
Messenger in the Colonial Office	—	30	"	
Schoolmaster to Government	—	£7 4s.	"	
Slaves . . . .	—	£22 10s.	"	
Seamen attached to the Port	—			
Office . . . .	—			
<i>Cape District.</i>				
The Governor . . . .	18,000	—	H.M.'s Government	House at Newlands.
Resident at Saldanha Bay . .	500	—	Colonial Government	
Overseer at Groote Post . . .	125	—	"	
Overseer at Buck Bay . . . .	75	—	"	
Overseer and Working Parties on Simon's Town Road . . .	600	—	"	
Undersheriff and Constable . .	600	—	"	

Landdrost . . . . .	—	£45 from the Colonial Treasury and £123 12s. from the District.	—	The Landdrost receives these allowances in lieu of a house, garden, cattle farm, &c., enjoyed by the Landdrosts in the Country Districts.	
<i>Simon's Town.</i>					
Commandant . . . . .	750	—	Colonial Government	The Secretary and Clerk occupy the Resident's house	
Government Resident . . . . .	1,500	—	"		
Colonial Chaplain . . . . .	1,125	—	"	These allowances are not considered as fixed.	
Clerk to Collector of Tithes . . . . .	—	£37 10s.	"		
Church Clerk . . . . .	—	£9 19s.	"		
Undersheriff . . . . .	—	£22 10s.	"	This expense is borne by the District Treasury.	
<i>Stellenbosch District.</i>					
Landdrost . . . . .	1,500	—	"		
Secretary . . . . .	625	—	"		
Messenger . . . . .	400	—	"		
Undersheriff . . . . .	300	—	"		
Dutch Teacher . . . . .	400	—	"		
English Teacher . . . . .	—	£27	"		
Do. at Paarl . . . . .	—	£45	"		
Do. at Somerset . . . . .	—	£22 10s.	"		
<i>Swellendam District.</i>					
Landdrost . . . . .	700	—	"		
Secretary . . . . .	200	—	"		
District Surgeon at Caledon . . . . .	300	—	"		
Superintendent of the Leper Institution. . . . .	150	—	"		

## Return of all Civil and other Officers.—continued.

Officers.	Value of House.	Rent allowed per annum.	Authority for the Accommodation.	Remarks.
<i>Swellendam District.</i> —continued.				
Undersheriff . . . .	130	—	Colonial Government	
Assistant Undersheriff at Caledon	60	—	"	
Messenger at Caledon . . .	50	—	"	
Upper Ferry Boatman . . .	45	—	"	
Farmer of the Toll at Hottentots Holland Kloof and Contractor for the repair of the road over ditto . . . .	40	—	"	
Farmer of the Toll at Houwhoek and Contractor for the repair of the road over ditto . .	40	—	"	
District Surgeon at Swellendam	—	£13 10s.	"	This expense is borne by the District Treasury.
English Teacher at Swellendam	—	£18	"	"
English Teacher at Caledon .	—	£30	"	"
Messenger . . . .	—	£10 10s.	"	"
<i>Uitenhage District.</i>				
Landdrost . . . .	2,750	—	"	
Secretary . . . .	750	—	"	
District Surgeon . . . .	600	—	"	
Messenger . . . .	525	—	"	
Secretary at Port Elizabeth .	—	£27	"	Borne by the District Treasury.
English Teacher at Uitenhage	—	£27	"	"





## Return of all Civil and other Officers.—continued.

Officers.	Value of House.	Rent allowed per annum.	Authority for the Accommodation.	Remarks.
<i>George District.</i>				
Landdrost . . . . .	2,250	—	Colonial Government	Lately destroyed by fire.
Secretary . . . . .	750	—	"	
Messenger . . . . .	300	—	"	
Undersheriff . . . . .	300	—	"	
District Surgeon . . . . .	300	—	"	
Dutch Teacher . . . . .	300	—	"	
English Teacher . . . . .	225	—	"	
Resident at Plettenberg's Bay	1,500	—	"	
Pilot at the Knysna . . . . .	600	—	"	Now reduced.
Boat's Crew at Mossel Bay . . .	375	—	"	"
Resident at Mossel Bay . . . .	—	£45	"	
<i>Worcester District.</i>				
Landdrost . . . . .	7,000	—	"	
Secretary . . . . .	—	£27	"	
Messenger and Undersheriff . .	225	—	"	
Deputy Landdrost of Clanwilliam	375	—	"	
Secretary . . . . .	£187 10s.	—	"	
<i>Albany District.</i>				
Landdrost . . . . .	900	—	"	This is the new Drostdy House, the building of which is still in progress.
" . . . . .	3,000	—	"	



[Office Copy.]

*Letter from R. W. HAY, ESQRE., to LORD CHARLES SOMERSET.*

DOWNING STREET, 14 December 1826.

MY LORD,—I am directed by Earl Bathurst to transmit to your Lordship a letter which has been received from the Under Secretary of State for the Home Department, covering a Petition to His Majesty from Mr. Thomas Willson, late a Settler at the Cape of Good Hope, in which he prays for compensation for certain losses which he alleges himself to have sustained, and I am directed to request that your Lordship will acquaint Earl Bathurst whether there are any observations which you would be desirous of offering on the subject matter of Mr. Willson's application. I have &c.

(Signed) R. W. HAY.

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[Office Copy.]

*Letter from R. W. HAY, ESQRE., to MR. BENJAMIN WILMOT.*

DOWNING STREET, 14 December 1826.

SIR,—I have to acknowledge the receipt of your letter of the 9th instant.

When I saw you at this Office on the morning of that day, I did not, as you seem to imagine, assert that your Brother had informed you of the arrangement which had been made by the Colonial Government for regulating the claims of your party; but I expressed my opinion that he ought to have informed you of that arrangement and thereby spared you the necessity of making application to His Majesty's Government upon a point which has been settled long ago, and which you must be perfectly aware is of too local a nature to be discussed in this Country. I am &c.

(Signed) R. W. HAY.

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[Original.]

*Letter from MR. BENJAMIN WILMOT to R. W. HAY, ESQRE.*<sup>1</sup> 20 DAVIES STREET, BERKELEY SQUARE, December 14th 1826.

SIR,—I regret being under the necessity of being importunate upon a point which I am acquainted by your letter of this day “has been settled long ago and which I must be perfectly aware is of too local a nature to be discussed in this Country.” To obtain the terms of that Settlement was the object of my letter of the 9th instant and I really must state that I have not represented my own and my Brother’s claims by way of experiment but as I conceived where they might be properly enquired into and remunerated and if they have already been satisfied to my Brother I shall be happy to have the particulars officially communicated to me. To the 26th of September last I think I may say my Brother had released neither his own nor my claims, and as he has now become a cripple and is urgent for my assistance it would be unjust and cruel of me to abandon them. I am &c.

(Signed) B. WILMOT.

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[Office Copy.]*Letter from EARL BATHURST to MAJOR GENERAL BOURKE.*

DOWNING STREET, LONDON, 15 December 1826.

SIR,—I have to acknowledge the receipt of your dispatch No. 59, of the 22nd of August last, enclosing a Memorial from Surgeon Lys, who prays to be allowed to retire from the Colonial Establishment of the Cape with a Pension of Seventy five Pounds per annum, and I have to acquaint you in reply that there do not appear to be sufficient grounds for complying with this application. I am &c.

(Signed) BATHURST.



[Office Copy.]

*Letter from R. W. HAY, ESQRE., to LORD CHARLES SOMERSET.*

DOWNING STREET, 15 December 1826.

MY LORD,—In consequence of an enquiry which was made some time since by the friends of D. Cawood, a Settler at the Cape, respecting a sum of money which that Individual had assured them that he had remitted to them through the Agency of the Commissariat, Earl Bathurst directed Major General Bourke to make enquiry upon the subject ; and I am now directed by his Lordship to transmit herewith a dispatch and its enclosures, which have been received from the Major General, and from which it appears that Cawood must have written to his friends under the expectation that the residue of a claim which he had preferred on the Government of the Colony would be remitted to his friends in this Country ; and I am to request that your Excellency will inform his Lordship whether he is to understand, as intimated by Major General Bourke, that your Excellency is not prepared to recommend that any further payment should be made to Cawood.

I have &amp;c.

(Signed) R. W. HAY.

[Office Copy.]

*Letter from R. W. HAY, ESQRE., to T. P. COURTENAY, ESQRE.*

DOWNING STREET, 15 December 1826.

SIR,—Major General Bourke has applied to Earl Bathurst for a number of fire engines for the use of the districts of the Cape of Good Hope ; but as the estimate of the expense of the engines has appeared to his Lordship to exceed the limits of any expenditure which could be authorised for a service of this nature, I have received his Lordship's directions to desire that you will take measures for providing two Fire Engines of a very simple construction with buckets, in order that they may be used in the Colony as Models. I am &c.

(Signed) R. W. HAY.

[Office Copy.]

*Letter from R. W. HAY, ESQRE., to the REVEREND DR. MANUEL.*

DOWNING STREET, 15th December 1826.

SIR,—With reference to the correspondence which passed with you some time since upon the subject of an application which was received from you on behalf of Mr. Cassey who was desirous of proceeding to Holland for the purpose of qualifying himself by the Study of the Dutch language for a clerical situation at the Cape, I have received his Lordship's directions to acquaint you that if Mr. Cassey be still desirous of proceeding to that Colony, his Lordship will be prepared to accept his Services. I am further to acquaint you that an opportunity now offers for appointing another Presbyterian Minister to a vacant Church in the Colony, and in consequence of an application which his Lordship has recently received from the Reverend John Murray of Aberdeen, in favour of Mr. Cole Turner and of Mr. Edgar, his Lordship will be ready to grant the usual facilities to either of those gentlemen for the purpose of proceeding to Holland in the first instance ; and if you should have no objection to enter into communication with Mr. Murray on this Subject, you might explain to that Gentleman the nature of the arrangement into which Mr. Cole Turner, or Mr. Edgar, as well as Mr. Cassey, will have to enter previously to their departure from this Country. I am &c.

(Signed) R. W. HAY.

[Office Copy.]

*Letter from R. W. HAY, ESQRE., to MR. JOHN FOURNIER.*

DOWNING STREET, 15 December 1826.

SIR,—Having laid before Earl Bathurst your letter of the 13th instant, I have received his Lordship's directions to acquaint you in reply that without now adverting in detail to the grounds upon which you have founded your present application to his Lordship, there will be no objection to

assign to you a grant of land at the Cape of Good Hope, or in New South Wales or Van Diemen's Land ; but you must understand that although there will be every disposition to shew you indulgence in the selection of the Land, yet that the extent of the grant must be proportioned to your means of bringing it into cultivation. I am &c.

(Signed) R. W. HAY.

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[Office Copy.]

*Letter from* EARL BATHURST *to* MAJOR GENERAL BOURKE.

~ DOWNING STREET, LONDON, 16 December 1826.

SIR,—I have to acknowledge the receipt of your dispatches of the numbers noted in the margin [Nos. 62, 69, 74 and 75].

I shall take measures for selecting two competent persons to undertake the ministry of the vacant Dutch Churches in Albany and in George ; but as it will be necessary that they should first proceed to Holland, for the purpose of acquiring a sufficient knowledge of the Dutch language, it may be some time before they can be ready to embark for the Colony.

As I have already appointed Mr. Revely to the Office of Civil Engineer to your Government I have no instructions to convey to you respecting Mr. Skirrow. The Salary which has hitherto been paid to Mr. Chisholm will of course be available for the payment of part of Mr. Revely's Salary ; and Mr. Hope must be considered as a Candidate for any employment for which he may be particularly suited.

I am not prepared to sanction the expense of providing so many fire engines as you have applied for ; but I have instructed the Colonial Agent to provide two of simple construction, and an effort must be made to prepare the others in the Colony.

I authorize you to assign an annual allowance of three hundred Pounds for the support of the Public Library, and in order to put an end to all discussion with the Committee of the Library respecting the provisions of the Governor's Pro-

clamation of the 20th of March 1818 you will forthwith repeal that part of the Proclamation which assigns the produce of the Gauging duties to the Library. I am &c.

(Signed) BATHURST.

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[Original.]

*Letter from MAJOR-GENERAL BOURKE to EARL BATHURST.*

GOVERNMENT HOUSE, CAPE TOWN, *December 16th 1826.*

MY LORD,—I have the honor to enclose the copy of an Ordinance for deferring the period of the exclusive adoption of the English language in the Courts of Justice in this Colony. Representations had been made to me on this subject by the Worshipful the Court of Justice and by two of the Courts of Landdrost and Heemraden of the Country Districts, and would probably have reached me from all but that it was generally conceived the use of the English tongue would not be enforced in the Courts during their present form. It would indeed have been useless to have required some of the present Members to deliver their opinions in English, and the appointment of Translators and Interpreters which will be necessary even at a later period cannot be arranged until the constitution of the Courts is decided on. Your Lordship will perceive that the Ordinance authorizes the immediate introduction of the English language into all or any of the Courts whenever Government shall determine on its expediency.

I have the honor to enclose copies of the representations made to me on this subject. I have &c.

(Signed) RICHD. BOURKE.

[Enclosure 1 in the above.]

Ordinance No. 27. See page 427.



[Enclosure 2 in the above.]

CAPE TOWN, *November 30th 1826.*

SIR,—Previously to opening the Court of Justice after the expiration of the vacation, I considered it my duty to call an extraordinary meeting of the members, in order generally to ascertain whether anything had occurred during the recess which required provision before the commencement of the usual Session, but more particularly in compliance with the order contained in the Proclamation of the 5th July 1822, to frame the necessary previous arrangements for the English language being exclusively used in all the judicial acts and proceedings from the 1st January next.

With this view the Members jointly with myself proceeded to examine step by step into the several duties of the Court, and of its confidential and other servants, when in the most essential parts of the administration of justice difficulties and obstacles of such importance appeared that I did not feel myself at liberty to press the matter further. I beg leave to transmit for your Honor's consideration the records of the proceedings held on that occasion, from which your Honor will perceive that the Court did not act in this case with any precipitancy, but on the contrary that all circumstances were seriously weighed and maturely deliberated on. The difficulties in criminal cases appear somewhat less than in civil, the proceedings in which latter are more complicated and accompanied with a multiplicity of practical technical terms, peculiar to the Dutch law, but taking the whole in general the result of our deliberations has been a conscientious and, in my humble opinion, well founded apprehension that the Court cannot undertake the task with which it is charged by the aforesaid Proclamation without endangering that dignity and confidence inseparable from a due administration of justice.

In this state of things I consider it my duty to join with my coadjutors in submitting the existing difficulties to your Honor's serious consideration and to request that you will be pleased to relieve the Court for the present from the obligation

of complying with the letter of the Proclamation of the 5th July 1822.

In support of this request I feel particular satisfaction in being enabled to add that it has been the practice of the Court for a considerable time past to afford every possible facility to all British subjects unacquainted with the Dutch language who may be involved in any law suit, by causing all summonses to be served on them in English, allowing them to make all their statements in court in English, not requiring a Dutch translation of any documents originally in English which it may be necessary to file in Court, taking the evidence of English witnesses in criminal cases in English, and in many instances recording it in the same language, and in one word by doing everything in our power in the administration of justice with respect to British subjects ignorant of the language of the Colony that the difference of the language may not be of the least prejudice to any one. I have &c.

(Signed) J. A. TRUTER.

His Honor Major-General R. Bourke, C.B.,  
Lieutenant-Governor.

[Enclosure 3 in the above.]

Extract from the Resolutions passed by His Honor the Chief Justice, Sir J. A. Truter, Knight, and the Members of the Worshipful Court of Justice of the Cape of Good Hope and the Dependencies thereof.

*Monday, the 20th November 1826.*

The Chief Justice states that he had called this extraordinary meeting of the Court before the expiration of the vacation, in order in the first place to hear from the members whether anything particular has occurred respecting the administration of justice during the recess which requires attention or provision previously to resuming the ordinary business of the Court on Thursday next, and in the second place to confer and deliberate with the members on the preparatory measures which it is

necessary to adopt betimes, so as to be ready to commence all judicial proceedings in the English language on the 1st January next, pursuant to the Proclamation of the 5th July 1822.

With respect to the first point it appears from the unanimous declarations of the members that nothing particular has occurred to them that requires the attention of the Court or the adoption of any provision at the opening of the session, but with regard to the second point, namely the use of the English language in all judicial acts and proceedings, after the most serious and mature deliberation on the subject (in which Mr. Murphy the English Assistant Secretary of the Court declared that he considered himself incapable, as well in consequence of an extreme debility of sight as from other circumstances of performing the duties of Secretary) the result is the concurrent opinion of all the Gentlemen is that both with respect to the Court collectively as a body and to the members sitting separately as judges, and likewise with regard to the Court's confidential servants, difficulties of so much consequence as to the adoption of the English language are in the way as to afford well founded apprehensions that justice cannot be administered with that precision, dignity, and confidence which the interest of such an important object requires.

That however although this is the real aspect in which the several concurrent opinions show themselves, the Court nevertheless wishing with every possible readiness to comply with the desire of Government, is willing previously to coming to a final resolution to defer all further deliberation on the subject till the next Court day, in order to see whether a subsequent consideration of the case may not lead the members to adopt other opinions.

*Thursday, the 23rd November 1826.*

The final resolution respecting the adoption of the English language in the administration of justice, which was to have commenced with the 1st of January 1827 having been postponed from the last meeting of the Court till this day, the members unanimously declare that in a further consideration of the case they are the more and more convinced of the

opposing difficulties suggested on Monday, and especially with regard to the members of the Court who sit in cases brought before Commissioners when they must be personally and particularly active to attain a successful termination.

Resolved therefore to address His Honor the Lieutenant Governor most seriously but at the same time with the greatest respect on the subject, towards which the offer of His Honor the Chief Justice to do so in the name of the Court is graciously accepted.

A true extract.

(Signed) D. F. BERRANGE, Secretary.

[Enclosure 4 in the above.]

SECRETARY'S OFFICE,  
STELLENBOSCH, 6th November 1826.

HONORABLE SIR,—We most respectfully take the liberty of communicating to your Honor a difficulty that we Heemraden have to expect the next year in 1827, and which is the introduction of the English language into the Courts of Judicature, and with regard to it in other respects, that although we would willingly submit to all the laws and orders of Government, yet it cannot possibly be required of us that we should sign the daily records, sentences, acts of judgment upon criminal misdeeds, and other documents if drawn up in a language that the greatest part of us are unacquainted with. We mention acts of inquest, as by a wrong word or by one being therein indistinctly inserted, the life of a person might depend. How could we vindicate ourselves for signing the records, or in other words our acts for posterity if we did not understand them, which acts we everywhere as well as here resumed, and after which decided, in order to prevent any misconception of a Resolution.

We therefore with all due respect present betimes to the consideration of your Honor the difficulties which have arisen in our minds on the foregoing subject in order that your



Honor may make such provisions in what relateth thereunto as your Honor may deem expedient. We have &c.

(Signed) J. C. FAURE  
J. A. MYBURGH  
A. O. VAN DER BYL  
C. J. BEYERS  
F. ROOS  
P. MARAIS.

Seen.

(Signed) D. J. VAN RYNEVELD, Landdrost.

To His Honor Major-General Richard Bourke,  
Lieutenant-Governor.

(Signed) J. MARTINSON, Translator.

[Enclosure 5 in the above.]

GRAAFF REINET, *September 8th 1826.*

SIR,—We have the honor to enclose Extract from our Records of the 4th instant containing the scruples of the Heemraden relative to the election of new Members for this Board, owing to their deficiency in the knowledge of the English language, and begging for the same reason that His Honor the Lieutenant Governor may be pleased to accept of their Resignation. We have &c.

(Signed) A. STOCKENSTROM, Landdrost.

By order of the Board.

(Signed) E. BERGH, O. M. son, Secretary.

The Honorable Sir Richard Plasket, Knight,  
Secretary to Government.

[Enclosure 6 in the above.]

*Extracts from the Records held by the Board of Landdrost and Heemraden of Graaff Reinet on*

*Monday, the 4th September 1826.*

The Landdrost having moved that the Board proceed to the election of Heemraden for the next term, as customary : the

Heemraden unanimously stated that they were quite at a loss how to comply with that part of their duty. That for many years they had endeavoured to promote to their utmost abilities (however defective these may have been) the interests of Government, as well as those of the Inhabitants, insomuch that in their political capacity they have received the most convincing proofs of having given satisfaction to Government, whilst in their judicial administration they have acquired the confidence of the public and, in as far as they know, have gained the approbation of Superior Courts.

That they would now also consider it their most sacred duty to devote their best exertions to the welfare of the Country, but that they feel themselves obliged to declare that, not having the least knowledge of the English language, a longer continuation of their services would be a burden to the District without either benefit to the Government or support to the Inhabitants, and consequently would be a reproach on their conscience ; it being enacted by Proclamation of the 5th July 1822 that all judicial procedures must after the last day of this current year be carried on in said language, so that they would judge or be considered as judging of cases the merits of which they would be totally unable to appreciate, and to sanction with their signatures Sentences and Documents of the tenor of which they would have but a superficial idea, whereas even interpretation or translation does not always convey sufficient explication or light to guide in conscientious decisions.

That they shall not for the present attempt to argue in how far this extensive District, in which there are only a very few English inhabitants (the number of others who understand the English language being still less), is now already ripe for a general introduction of that language in Judicial Proceedings.

That they are penetrated by the conviction that this introduction, as soon as it can be conveniently effected, would by promoting concord and a general amalgamation of feelings, tend much to the welfare of this Colony, and that they consequently would never oppose such a measure if resorted to at an eligible period, but that they, not understanding that language themselves and not being able to elect any others than those labouring under the same defect with themselves, are compelled respectfully to entreat Government to take this

case into its most serious consideration, and as the said Proclamation is to be carried into effect on the 1st of January next, that Government may be pleased not only to excuse them from the election of new Heemraden, but also to accept of their resignation, which request they consider in every respect consistent with their loyalty to His Majesty and the British Government and their bounden duty towards their country and fellow inhabitants.

A true extract.

(Signed) E. BERGH, O. M. son, Secretary.

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[Original.]

*Letter from MAJOR-GENERAL BOURKE to EARL BATHURST.*

GOVERNMENT HOUSE, CAPE TOWN, *December 16th 1826.*

MY LORD,—I have the honor to enclose the copy of a Petition to the Honorable the House of Commons drawn up as I believe by the Editor of Mr. Greig's Newspaper and signed by many very respectable Inhabitants of this Town and Colony. It contains as your Lordship will perceive a long detail of grievances, and suggests certain remedies. I think it my duty to lay before your Lordship whatever information I possess relative to the several matters set forth in the Petition, some of which may perhaps become subjects of Parliamentary discussion. I understand that the Petition is to be presented to the House by Mr. Baring.

Of the general distress under which the Colony has labored during the past and former years, I believe the representation is not exaggerated. In addition to the pressure of distress, the minds of the People have for the last two years been kept in a high state of excitement by the expectation of several important and beneficial reforms to be accomplished by means of His Majesty's Commissioners of Inquiry. But that any augmentation of the general distress can have been occasioned by a penny Stamp on Newspapers, or by the late regulation of the Post Office it is not necessary to waste time in denying.

The regulation of the Post Office has been undertaken, as your Lordship will recollect, with the view of relieving the public Revenue from the heavy loss which it has for some time sustained by the conveyance of the mails. This has been attempted chiefly by a reduction of the privilege of franking, of the salaries of the Deputy Postmasters, and by contracting for conveyance on cheaper terms. The rate of Postage has in no case been much augmented, in some instances it has been reduced, Newspapers have however been charged one penny postage, and it is natural that in a Petition framed by the Editor of a Journal, this charge and the Stamp duty should be placed in the foreground.

With regard to what is urged as to the apprehension of further Taxes, much alarm doubtless has been excited by the receipt of a private letter from England in the month of October last announcing that the Commissioners of Inquiry had recommended a capitation tax of one Pound on slaves, whilst no mention was made of the proposed reduction of other taxes. The latter circumstance has now transpired, and I believe the fears of the Public are in some measure dissipated, more especially since the Council have examined Evidence to enable them to comply with your Lordship's last instructions on this subject.

The Currency Question has already been fully gone into, and I am not aware that I can add anything to the information which your Lordship possesses on this subject; but I cannot refrain from expressing a wish that some definitive declaration were made in this matter, as doubtless much inconvenience is experienced by the encouragement lately given to the idea that the question is still open to discussion.

The Colonial duty on Wine amounts upon the whole to 8s. 2d. per leaguer of 152 gallons, or about three farthings per gallon, a charge which cannot materially influence its price in the foreign Market. It is the quality of the Wine and not its price that renders it so slow of sale. The Petitioners have omitted to mention that a duty of 3s. 4½d. per leaguer for tasting was taken off last July.

By the "partial restraints upon Colonial articles of export" allusion is made I believe to the occasional licenses to export corn granted to individuals upon no fixed principle, but at the



discretion of the Governor, who is stated in a Proclamation on the subject to retain this power in his own hands. I have already had the honor to lay before your Lordship the opinion of the Council upon the state of the laws of this Colony affecting the Export and Import of Grain and its internal circulation.

It is not the fact that the salaries of the chief Functionaries are all too high. Many are decidedly the reverse, such as that of the Chief Justice and those of the Members of the Court of Justice. I believe however that some of the salaries of those called the sterling paid functionaries might be safely reduced. Upon the general expenditure of the Colony as well as the expediency of conceding to it the same advantages in the admission of its Corn and Spirits into British ports as are enjoyed by Canada and the Mauritius I have already ventured to lay before your Lordship my humble opinion in the despatch No. 72 of the 11th September last.

On the subject of the Cape Corps I need not make any observation, as your Lordship has already determined on the reduction of the Infantry, nor do I consider it necessary to make any remarks on the nature of the Colonial Government with which your Lordship is so well acquainted ; but I feel it my duty to observe that I differ entirely from the Petitioners as to the expediency of establishing a House of Representatives in this Colony. I am fully convinced it does not possess sufficient materials from whence to select such a body for any useful purpose, and that the constitution of Canada would be altogether unsuitable for the present state of society in this Settlement. Nor do I consider that the trial by Jury could be safely conceded in civil cases, tho' I apprehend it might in criminal. Upon the expediency of new modelling the Court of Justice I understand your Lordship has already decided ; and I have lately had the honor to receive your commands on the subject of licensing journals. I confess however that I am at a loss to conceive what greater liberty a Printer can require than that which the framer of this Petition has already assumed in the conduct of his Newspaper.

I have thus as briefly as possible gone thro' the principal matter contained in this desultory Petition to which your Lordship's attention may probably be called. I regret that I am compelled to admit the prevalence of great and general

embarrassment and distress throughout the Colony, arising chiefly from a complete stagnation in the Wine Trade and the repeated failures of the corn crops, circumstances which have produced a considerable degree of discontent and irritation in the public mind. But I should add that the sounder part of this community confidently expect from the known liberality and wisdom of His Majesty's Government, that after due consideration of the Commissioners' Report measures will be taken for the improvement of many of the Institutions of the Colony and for preventing the recurrence of those abuses which have augmented the present distress ; and I am fully persuaded that if advantage had not been taken of the current report of a projected tax on slaves, so many respectable persons would not have affixed their signature to this Petition.

Your Lordship will observe that no mention whatever is made of the late Ordinance for the improvement of the condition of Slaves in this Colony. This beneficial measure may now be considered as fully established. I have &c.

(Signed)      RICHD. BOURKE.

(See the Petition on page 369).

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[Original.]

*Letter from MAJOR-GENERAL BOURKE to R. W. HAY, ESQRE.*

GOVERNMENT HOUSE, CAPE TOWN, *December 16th 1826.*

MY DEAR SIR,—With reference to your letter of the 22nd July last and its enclosure from Lord Charles Somerset on the subject of Mr. Revely's appointment as Civil Engineer and the saving of expense which might be effected by giving him the charge of the Town Water Works in the place of Mr. Chisholm, I beg to acquaint you that I have taken measures for accomplishing this object from the beginning of next year.

I have &c.

(Signed)      RICHD. BOURKE.

[Office Copy.]

*Letter from R. W. HAY, ESQRE., to WILLIAM HILL, ESQRE.*

DOWNING STREET, 16 December 1826.

SIR,—I am directed by Earl Bathurst to transmit to you enclosed copies of a dispatch and its enclosure which have been received from the Lieutenant Governor of the Cape of Good Hope, in which he represents the necessity of some modification of the 21st Article of the Instructions of the Lords Commissioners of His Majesty's Treasury under date of the 18th of March 1816, whereby it is directed that no sums be issued unless authorised by Warrants under the hand of the Governor ; and I am to request that you will lay these papers before the Lords Commissioners for their Lordships' consideration.

I am &amp;c.

(Signed) R. W. HAY.

[Office Copy.]

*Letter from EARL BATHURST to MAJOR-GENERAL BOURKE.*

DOWNING STREET, LONDON, 17 December 1826.

SIR,—I have to acknowledge the receipt of your dispatch No. 73 stating that the Drostdy House at George had been burnt down, and recommending for my favorable consideration a Memorial from the Inhabitants of the District in which they pray that the Drostdy House may be rebuilt, and the Landdrost may be indemnified for the loss of property which he has sustained by the conflagration.

I approve the determination which you took to make immediate arrangements for rebuilding the house ; and you will in the mean time issue to the Landdrost a moderate allowance for house rent. But however much I may regret the occurrence of a disaster which has exposed the Landdrost to so much personal inconvenience, I am not prepared to

admit that His Majesty's Government is called upon to grant compensation for losses incurred by public Servants under circumstances of this nature. At all events, I should not deem this a fit case for the consideration of His Majesty's Government, without being apprized of the cause of the fire and of other particulars relating to this occurrence of which you have omitted to inform me. I have &c.

(Signed) BATHURST.

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[Original.]

*Letter from MAJOR-GENERAL BOURKE to EARL BATHURST.*

GOVERNMENT HOUSE, CAPE TOWN, *December 17th 1826.*

MY LORD,—In obedience to the Instructions contained in your Lordship's despatch of the 9th July last received here the 19th November, I lost no time in bringing the question of a tax on Slaves in this Colony under the consideration of His Majesty's Council. Mr. Bigge the only member of the Commission of Enquiry now remaining here was invited to assist at the deliberations and was requested to furnish the Council with any explanatory documents he might think useful. In addition to the information obtained from these and other papers required by the Council, it was deemed necessary to take evidence on some points connected with the question. Several persons were accordingly examined, and their evidence together with copies of the written documents and the minutes of Council are now transmitted for your Lordship's information. I should observe here that from some parts of Mr. Bigge's communications it appeared that the proposed tax on slaves was chiefly intended to supply the deficiency of Revenue which would be occasioned by the removal of the taxes considered by His Majesty's Commissioners of Inquiry as more objectionable, and it therefore became the duty of the Council to enquire into the nature and amount of the taxes thus proposed to be removed.

To the Minute of the 16th December instant I beg to refer



your Lordship for the grounds upon which the Council have formed the following opinion :—

1st. That in the present state of this Colony it is inexpedient to levy a tax upon slaves.

2nd. That in order to sustain the Revenue it will be more advisable to continue the ancient taxes than to establish in their place a tax upon slaves.

In these two propositions is contained the information which I have been required to furnish by your Lordship's despatch of the 9th July.

It remains for me to add that the Council not having the means of examining into the proposed arrangements for the future Revenue and Expenditure of the Colony found themselves debarred from making the adjustment which your Lordship required, in any other way than that which they have adopted. Mr. Bigge declined making any communication to the Council of the general plan of finance submitted to your Lordship by His Majesty's Commissioners of Inquiry, and I had to profess myself in ignorance of the details of that which has lately been transmitted for your Lordship's consideration. I have however reason to believe that influenced by the unvaried tenor of the Evidence brought before them, the Council fully concur, in the opinion I have already had the honor to submit to your Lordship, that the state of this Colony will not admit of any additional taxation. I have &c.

(Signed) RICHD. BOURKE.

[Enclosure 1 in the above.]

*See Proceedings of the Council.*

[Enclosure 2 in the above.]

GOVERNMENT HOUSE, CAPE TOWN, *November 21st 1826.*

SIR,—With reference to my letter of this date covering Earl Bathurst's despatch of the 9th July last requiring the Council to report upon the expediency of levying a tax on slaves in this Colony, I beg to enquire whether you see any objection to there being laid before Council the letters marked Private and Con-

fidential addressed by the Commissioners of Inquiry to Lord Charles Somerset and to myself upon the subject of this and other taxes. The Report required by Lord Bathurst from the Council will require much consideration and a knowledge of several if not of all the matters contained in these letters.

(Signed)      RICHD. BOURKE.

J. T. Bigge, Esqre.

[Enclosure 3 in the above.]

CAPE TOWN, 22nd November 1826.

SIR,—I have the honor to acknowledge the receipt of your letter of yesterday's date, and in reply to the inquiry contained therein as to any objections on my part to the production before His Majesty's Council of the letters marked Private and Confidential addressed by my Colleagues and myself to Governor Lord Charles Somerset and to your Honor upon the subject of the Slave and other Taxes, I beg leave to state that with respect to such parts of the two letters that we had the honor of addressing to yourself on the 9th June last and that are strictly confined to the consideration of the expediency of the Slave Tax, its amount and extent, and which I have taken the liberty to mark with brackets in red ink, I feel no objection to their production, subject always to the same pledge of secrecy on the parts of the Members of Council as that which accompanied the first transmission of the originals.

Although as far as concerns my colleagues and myself I should feel equally disposed to extend my acquiescence to similar portions of the letters addressed to Lord Charles Somerset upon the same subject, yet I do not conceive that it remains with me to exempt them from the pledge of confidence and secrecy that accompanied them.

My objection to the production of those parts of the letters which relate to other taxes and to reductions in the existing establishments arises principally from the alterations that we were subsequently induced to make in the views which we had taken of some of them in our final Report to Lord Bathurst upon the subject of the Colonial Finances, and which cannot yet have reached his Lordship, but as one of the alterations.

that we proposed so immediately connected with the Slave Tax I will take this opportunity of stating to your Honor that upon a consideration of the reasons that were urged by you and of the distressed state of the Colony, we were induced to recommend a present reduction in the amount of the Slave tax from one pound to ten shillings sterling per head on all slaves above the age of ten and under sixty years. I have &c.

(Signed) JOHN THOMAS BIGGE.

His Honor Major-General Bourke, C.B.

[Enclosures 4 to 14 have already been given.]

[Enclosure 15 in the above.]

Return of the principal Slave Owners in the District of Stellenbosch, with the amount of Taxes paid by each in the year 1824.

Names of the Owners.	Number of Male Slaves above 16 years of age.	Amount of Taxes paid.		
		Rds.	Sks.	Sts.
J. C. Faure, Senior . . . . .	23	70	0	0
P. L. Cloete . . . . .	24	85	2	0
Adrian Louw . . . . .	36	99	1	0
Dirk Cloete . . . . .	40	105	0	0
C. F. Beyers . . . . .	16	87	4	0
Widow J. P. Watney . . . . .	21	78	7	4
Michiel de Kock . . . . .	15	40	0	0
A. C. van der Byl de oude . . . . .	21	52	1	0
W. A. Krige . . . . .	15	58	6	0
J. P. Roux, Jz. . . . .	19	63	1	0
P. G. van der Byl de oude . . . . .	56	156	3	0
J. A. Myburgh, Senior . . . . .	30	66	4	0
Widow P. A. Myburgh . . . . .	20	40	7	0
D. K. Morkel de oude . . . . .	23	69	0	0
P. G. Myburgh . . . . .	18	41	6	0
P. H. Morkel de oude . . . . .	24	45	0	0
Widow C. E. Pentz . . . . .	23	114	3	0
F. D. Rossouw, Fz. . . . .	17	61	3	0
P. Marais, Jz. . . . .	15	48	4	0
W. J. Louw, Hz. . . . .	20	67	5	0
Jacobus de Villiers . . . . .	18	58	5	0
Paul de Villiers . . . . .	15	53	6	0

Return of the Principal Slave Owners—*continued.*

Names of the Owners.	Number of Male Slaves above 16 years of age.	Amount of Taxes paid.		
		Rds.	Sks.	Sts.
H. S. Bosman de oude . . . . .	17	25	5	0
Izaak Rossouw . . . . .	16	41	0	0
J. R. Louw, Jz. . . . .	22	54	0	0
R. Roux, Jz. . . . .	16	72	0	0
Widow G. van der Byl . . . . .	20	43	0	0
A. B. de Villiers, Jz. . . . .	16	48	3	0
Johannes Minnaar de oude . . . . .	18	37	3	0
J. F. de Villiers, Jz. . . . .	15	42	3	0
J. W. Louw . . . . .	23	68	6	0
Widow H. Louw . . . . .	18	20	5	0
N. van Weiling . . . . .	23	100	7	0
H. H. van Niekerk de oude . . . . .	28	101	4	0
H. C. van Niekerk, Jz. . . . .	31	Free of Taxes.		
Johannes Basson . . . . .	16	53	3	0
Widow T. G. van Schalkwyk . . . . .	15	51	7	0
Widow A. de Villiers de oude . . . . .	4	28	6	0
C. L. Wykherd . . . . .	2	19	1	0
Widow W. Morkel de oude . . . . .	4	13	4	0
J. I. Krige . . . . .	3	5	1	0
D. J. de Villiers, Dz. . . . .	4	22	1	0
P. van Wyk . . . . .	2	12	1	0
J. N. de Villiers, Az. . . . .	3	13	5	0
G. C. Immelman . . . . .	2	8	3	0
J. G. Fischer . . . . .	4	30	2	0

[Enclosure 16 in the above.]

Return of the principal Slave Owners in the Cape District, with  
the amount of Taxes paid by each in the year 1824.

Names of Slave Owners.	Number of Male Slaves above 16 years of age.	Amount of Taxes paid.		
		Rds.	Sks.	Sts.
W. A. van Niekerk . . . . .	24	158	6	0
J. A. Laubscher . . . . .	19	144	4	0
Lambertus van Sittert, Senior . . . . .	15	121	2	0
H. van Niekerk, Senior . . . . .	26	293	1	0
N. Mostert (Fieldcornet) . . . . .	19	—		
A. de Waal, Cz. . . . .	27	218	7	2
M. de Kock, Senior . . . . .	18	148	1	0



Return of the Principal Slave Owners—*continued.*

Names of Slave Owners.	Number of Male Slaves above 16 years of age.	Amount of Taxes paid.		
		Rds.	Sks.	Sts.
Johannes Louw . . . . .	20	216	3	0
N. E. Mostert . . . . .	16	113	0	0
C. Mostert, Senior . . . . .	26	170	0	0
Gysbert van Reenen . . . . .	27	92	5	0
J. C. Blankenberg . . . . .	16	103	3	0
Jacobus van Reenen . . . . .	18	—	—	—
A. J. Myburgh . . . . .	15	145	0	0
Dirk Verwey . . . . .	18	—	—	—
C. M. Stoffberg . . . . .	18	245	1	0
A. F. Gous, Senior . . . . .	19	182	7	0
J. J. Kotzee, Senior . . . . .	20	207	7	0
C. H. Laubscher . . . . .	16	173	0	0
Marthinus Smuts . . . . .	19	162	3	0
Jan Hoets . . . . .	33	154	5	0
D. van Reenen, Dz. . . . .	27	127	0	0
Dirk Gysbert van Reenen . . . . .	50	35	0	0
H. Cloete, Rz. . . . .	15	143	6	0
Widow R. Cloete . . . . .	16	135	0	0
A. van Breda, Senior . . . . .	43	294	0	0
H. C. D. Maynier . . . . .	15	35	0	0
Widow H. Cloete . . . . .	32	206	2	0
Widow Colyn . . . . .	35	182	5	0
P. M. Eksteen . . . . .	26	204	0	0
H. O. Eksteen . . . . .	21	183	2	0
R. A. M. Cloete . . . . .	19	127	5	0
J. M. van Helsdingen . . . . .	21	176	7	0
T. F. Dreyer . . . . .	36	324	0	0
J. A. van Breda . . . . .	2	21	1	0
P. F. de Villiers . . . . .	4	106	5	0
P. J. de Villiers . . . . .	3	17	0	0
N. H. Laubscher . . . . .	2	11	0	0
L. van Sittert . . . . .	2	33	0	0
M. S. van der Spuy . . . . .	2	164	3	0
J. G. van der Spuy . . . . .	3	53	1	0
Jan van Schoor . . . . .	2	7	7	0
J. H. Theunissen . . . . .	4	102	0	0
J. G. van Niekerk . . . . .	4	108	4	0

[Enclosure 17 in the above.]

CAPE TOWN, 28th November 1826.

SIR,—I have the honor to acknowledge the receipt of your letter of this date enclosing a minute that you have prepared

for my confirmation containing the substance of the communications made by me to the Council at the sitting of yesterday relative to the expediency of the tax on Slaves proposed by my colleagues and myself to Earl Bathurst.

In reply I beg leave to state that I confirm the minute with the following exceptions of the passages which I have bracketted, and for which I should propose to substitute the following :

1. The second ground of exemption from the tax was to be created in favor of any female Slave whose child or children born after the promulgation of the tax may be declared free, it being competent to the owner to record such declaration in the Registry opposite the name of such female slave.

2. The taxes to be repealed consisted of the following : the income tax, the ordinary and extraordinary opgaaf taxes, the tithes, gauger's fees, market dues, the tax on cattle slaughtered and on grain sold in Cape Town. The commando tax is not one of those proposed to be repealed, but the mode of its assessment is altered, and it is rated at ten shillings per head upon all men between the ages of 16 and 60 not being slaves or servants. The commissioner stated that the estimated amount of the proposed taxes would nearly equal that of the taxes and imposts proposed to be repealed, not including the Wine Taster's fees already abolished, but with a view to show the effect of the proposed distribution the commissioner referred to a statement of the amount and nature of the taxes now paid by a wine farmer in the district of Stellenbosch possessed of 58 slaves but rated at only for 40, and of those that he would have to pay under the proposed system. The commissioner also referred to another document in proof of the unequal pressure of the present system of taxation on the proprietors of slaves. I have &c.

(Signed) JOHN THOMAS BIGGE.

D. M. Perceval, Esqre.,  
Clerk of the Council.

[Enclosure 18 in the above.]

Return of the increase and decrease of the Slave Population  
at the Cape of Good Hope during the years 1820 to 1825  
inclusive :—

Year.	Deaths.		Births.		Decrease.		Increase.		Annual Increase of the Slave Popula- tion.
	Males.	Females.	Males.	Females.	Males.	Females.	Males.	Females.	
1820 .	360	205	580	505	—	—	220	300	520
1821 .	367	239	556	505	—	—	189	266	455
1822 .	516	236	499	526	17	—	—	290	273
1823 .	465	277	513	551	—	—	48	274	322
1824 .	490	285	603	600	—	—	113	315	428
1825 .	568	399	618	578	—	—	50	179	229
Increase in 6 years . . . . .									2,227

(Signed) G. J. ROGERS,  
Registrar and Guardian of Slaves.

[Enclosure 19 in the above.]

Return of the number of Slaves between the ages of 10 and  
60 years registered in the several districts on the 31st  
December, 1825.

District.	Males.	Females.	Total.
Cape Town and district . .	5,428	3,411	8,839
Albany . . . . .	44	39	83
Beaufort . . . . .	187	160	347
Clanwilliam . . . . .	311	294	605
George . . . . .	659	604	1,263
Graaff Reinet . . . . .	742	538	1,280
Simon's Town . . . . .	101	34	135
Somerset . . . . .	515	447	962
Stellenbosch . . . . .	4,267	2,416	6,683
Uitenhage . . . . .	416	347	763
Worcester . . . . .	1,600	1,120	2,720
Swellendam . . . . .	1,227	1,007	2,234
Total . . . . .	15,497	10,417	25,914

Slave Registry Office, Cape Town,  
4th December 1826.

(Signed) G. J. ROGERS,  
Registrar and Guardian of Slaves.

For the remaining Enclosures see Proceedings of the Council.

[Original.]

*Letter from MAJOR-GENERAL BOURKE to EARL BATHURST.*

CAPE OF GOOD HOPE, *December 17th 1826.*

MY LORD,—I have the honor to transmit to your Lordship the General Monthly Return of the Forces serving under my Command to the 25th November 1826. I have &c.

(Signed) RICHD. BOURKE, Major General.

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[Office Copy.]

*Letter from EARL BATHURST to MAJOR GENERAL BOURKE.*

DOWNING STREET, LONDON, *18 December 1826.*

SIR.—With reference to that part of your dispatch No. 77 which relates to the present condition of the Drostdy Houses at Graham's Town and Bathurst, I have to acquaint you that I authorize you to take measures for completing the house at the former place upon the conditions under which you state that this Service may be performed ; and I approve the arrangement which you have made for preserving the house at Bathurst from the injury to which it is, in its present unfinished state, exposed from the Weather. I am &c.

(Signed) BATHURST.

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[Original.]

*Letter from LORD CHARLES SOMERSET to R. W. HAY, ESQRE.*

48 LOWER GROSVENOR STREET,  
LONDON, *18th December 1826.*

SIR,—Referring to the letter I had the honor of addressing to you relative to the purposes to which the Government Farm at the Cape of Good Hope, called Groote Post, is applied, under date 26th July last, and subsequent letter dated 30th ultimo, I do myself the honor to transmit to you Affidavits



from the Agent of the Farm residing in Cape Town, Mr. Klerck, and from the Overseer of the Farm, Hy. Crowcher, confirming my Statement that the Farm was neither kept for my amusement or benefit; but that every Article consumed on my account has been regularly charged to me, which Statements are also confirmed by the Affidavit of my Household Aide de Camp, Capt. Hare, by whom all expences on account of my Establishment are defrayed. I have &c.

(Signed) CHARLES HENRY SOMERSET.

[Enclosure 1 in the above.]

J. R. G. Klerck of Cape Town, Cape of Good Hope, maketh oath that he has been Agent for, and kept the Accounts of the Government Farm at Groote Post since the 13th of March 1815, and that during that period considerable sums of Money have been from time to time paid to the said Farm's account by the Aides de Camp of His Excellency Lord Charles Henry Somerset and others, on account of His Excellency, for such Forage, Provisions and other Articles as the Overseer and Superintendant may have stated to have been consumed (being the produce of the said Farm) during the occasional visits of His Excellency and his friends to Groote Post, and that also in the same manner has been paid, and carried to the credit of the account of the said Farm, the price usually charged for the grazing of Cattle, the keep of Servants, Horses and Dogs, and the covering of such Mares as were sent to Groote Post Farm by His Excellency Lord Charles Henry Somerset. And the said J. R. G. Klerck further maketh oath that the Farm has never been charged with any Expence on account of such visits of His Excellency or his Friends, or for any other private accommodation of his Excellency.

Cape Town, Cape of Good Hope,  
11th September 1826.

(Signed) J. R. G. KLERCK.

Sworn before me in Cape Town this 11th day of September 1826.

(Signed) P. B. BORCHERS,  
Permanent Sitting Commissioner.

[Enclosure 2 in the above.]

I, Henry Crowcher, Superintendant of the Government Farm at Groote Post, do hereby make oath that His Excellency Lord Charles Somerset has been duly charged with every item of expence of every description which has been incurred by His Excellency at said Farm, either for his Excellency's private accommodation or for that of his Friends invited by His Excellency to visit the said Farm, or for the maintenance of His Excellency's Horses, Dogs, and Servants during those visits or any other periods, or for Mares sent by His Excellency to be covered by the Stallion belonging to the Farm, and that these various charges have been duly paid by Captain Hare, His Excellency's Aide de Camp, or by some other Person on His Excellency's account,

Cape Town, Cape of Good Hope, 8th September 1826.

(Signed) H<sup>Y</sup>. CROWCHER.

Sworn before me this 8th day of September 1826.

(Signed) J. W. STOLL, Landdrost for the Cape District.

[Enclosure 3 in the above.]

I, Joseph Hare, on the half pay of His Majesty's 43rd Regiment, and Aide de Camp to His Excellency Lord Charles Somerset, do hereby make oath that all demands made to me by Mr. Henry Crowcher Superintendant of the Government Farm at Groote Post, or by Mr. Klerck the Agent for the said Farm, for expences incurred by His Excellency Lord Charles Somerset on his Lordship's private account at the Groote Post Farm have been from time to time duly paid by me on His Excellency's private account.

Cape Town, Cape of Good Hope, 8 September 1826.

(Signed) JOS. HARE, A.D.C.

Sworn before me this 8th day of September 1826.

(Signed) J. W. STOLL, Landdrost Cape District.

[Office Copy.]

*Letter from R. W. HAY, ESQRE., to MR. BENJAMIN WILMOT.*

DOWNING STREET, 18 December 1826.

SIR,—In answer to your letter of the 14th instant, I have received Earl Bathurst's directions to acquaint you in reply that His Lordship has received from His Majesty's Commissioners of Enquiry a document signed by your brother and other persons of your party in which they express themselves perfectly satisfied with the regulation of their claims by the Colonial Authorities; and that his Lordship has no further information to communicate to you upon the subject.

I am &amp;c.

(Signed) R. W. HAY.

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[Original.]*Letter from MR. BENJAMIN WILMOT to R. W. HAY, ESQRE.*20 DAVIES STREET,  
BERKELEY SQUARE, December 18th 1826.

SIR,—The importance attached to the document transmitted to Earl Bathurst by the Commissioners of Enquiry in which my Brother and others of the party ('tis said) express themselves satisfied with the *regulation* of their claims by the Colonial Authorities will I hope warrant my present application for a transcript of it, and having that I shall conceive that I have in my possession a justification for abandoning those claims but otherwise it might be said I had nothing sufficiently definitive. In the earnest hope that no further trouble will be occasioned you, I am &c.

(Signed) BENJAMIN WILMOT.  

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[Office Copy.]

*Letter from* EARL BATHURST *to* MAJOR GENERAL BOURKE.

DOWNING STREET, LONDON, 19 DECEMBER 1826.

SIR,—I have the honor to acknowledge the receipt of your dispatches No. 78 and 95 under date of the 14th September and 25th of October last.

It is very satisfactory to His Majesty's Government to receive your assurances that the vague and groundless apprehensions which the publication of the Slave Ordinance appears to have created in the minds of the Slave Owners of the Colony, are gradually subsiding ; but I cannot help expressing my regret that you afforded any countenance to the proceedings of the persons who stated themselves to have been appointed by the Inhabitants of Cape Town to prepare a Petition to His Majesty on the subject of Slavery. The communication which these persons addressed to the Colonial Secretary on the 26th of August last is of so objectionable a character that it should not have been received ; and I desire to caution you against entering into correspondence with any class of persons in the Colony assuming to themselves the character of a representative body upon the provisions of the Ordinance without having received the instructions of His Majesty's Government. I allude in particular to that part of the Colonial Secretary's letter of the 15th of August, addressed to the Committee of Cape Town, in which he quotes a decision which had been adopted in another Colony, respecting the relative value of a slave, without knowing whether that decision had been confirmed or reversed by His Majesty's Government. This is a question on which it is most desirable that no erroneous impressions should prevail in the Colony ; and if the terms of the law be found insufficient to accomplish the object of it, in protection of the interests of the Slave or of his master, I shall be ready to adopt such measures as may be necessary for amending the Law ; but I am of opinion that by leaving the Law to its own operation, you will pursue a safer course than by attempting to expound it in reply to captious and hypothetical objections.



I am glad to find that the firmness which you displayed towards the Magistracy of Stellenbosch had the effect of bringing that body to a sense of their duty ; and I shall make no further observation on the proceedings of the Committee of Slave Owners in Graaff Reynet, than to express my hope that they may not disappoint the opinion which you have formed of the moderation of their views. I am &c.

(Signed) BATHURST.

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[Original.]

*Letter from the REVEREND THOMAS IRELAND to EARL BATHURST.*

GRAHAM'S TOWN, CAPE OF GOOD HOPE, *December 19th 1826.*

MY LORD,—Allow me to inform Your Lordship that I have had the Honor to receive from the Lieutenant Governor of His Majesty's Colony at the Cape of Good Hope a copy of Your Lordship's communication, Downing Street, London, 7th July 1826, to His Honor relative to the Colonial Chaplaincy at Graham's Town, and the misunderstanding that has arisen regarding the appointment to that Office, to which on the representation of His Excellency the Governor Your Lordship was pleased to nominate me.

Will Your Lordship pardon this my intrusion, arising from a thankful feeling, and permit me to express the high and grateful sense I entertain of Your Lordship's favorable consideration of my peculiar case, and to assure Your Lordship that while I have the Honor to be continued at Graham's Town it shall be my ardent endeavour to fulfil the object of the appointment, and labor willingly in the performance of the Duties of my Profession.

But should it please His Majesty's Government, on consideration of the representations made, and Your Lordship's assurance to second such representation, to the Secretary at War, that I may be replaced on the Staff of the Army as Brigade Chaplain, I trust My Lord, I shall not be thought acting in any way contrary to my sacred calling, nor forgetful of Your Lordship's

kindness by the undertaking of that appointment in which I have been engaged for many years in Ceylon, and at the Cape of Good Hope. I have &c.

(Signed)      THOMAS IRELAND, Chaplain.

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[Original.]

*Petition of MR. PIETER AURET.*

To the Right Honorable the Earl Bathurst, Secretary of State for the Colonial Department, &c., &c., &c.

May it please Your Lordship.

The Petition of Pieter Auret, Deputy Superintendent of Police at the Cape of Good Hope, a Native of that Colony, Sheweth

That Petitioner entered the Government service as a clerk in the Colonial Secretary's Office in the year 1803.

That in March 1818 Memorialist being then Chief Clerk and Translator in the Fiscal's Department, owing to the multiplicity of business in that Department, was appointed by letter from the Colonial Secretary, addressed to His Majesty's Fiscal, to prosecute all Police Cases and to assist the Fiscal in the taking of Criminal Investigations, but no increase of salary was allowed him for this additional duty, which was always performed, previous to this arrangement, by one of the Deputy Fiscals.

That Petitioner readily complied with the directions of Government in undertaking the performance of these extra duties, without receiving any remuneration for the same, in the hopes that in the event of a vacancy occurring he would be promoted in the same Office, in which expectation he however was disappointed by the appointment of Mr. W. van Ryneveld to the situation of Deputy Fiscal in March 1823.

That Petitioner notwithstanding Mr. Ryneveld's appointment as Deputy Fiscal performed these duties independent of his duties as Chief Clerk and Translator until April 1825, when

he was appointed Assistant Deputy Fiscal, which appointment increased his duties but made no alteration in his salary.

That in consequence of the order in Council of the 10th October 1825, No. 12, by which the administration of police was separated from the Fiscal's Department and a Superintendent of Police appointed, Petitioner was appointed Deputy Superintendent of Police on the 20th October following, but no salary fixed for that appointment.

That Petitioner has now served the Colonial Government for upwards of 23 years, and has a wife and children to support ; That Petitioner's Salary is £82 10s. being the salary of Chief Clerk and Translator in the Fiscal's Office, and that of the Superintendent of Police £700 per annum.

That owing to Petitioner's small salary and the whole of his time being entirely taken up by his present situation, he has been obliged to sacrifice the whole of his little private property towards the support and education of his numerous family, and is now entirely destitute of the means of supporting them according to his rank in society.

Petitioner begs leave to annex the following Documents for your Lordship's information, viz. :

1. Copy of a letter from the Colonial Secretary addressed to His Majesty's Fiscal, dated 13th March 1818.

2. Copy of a Memorial presented by him to Lord Charles Somerset, dated 20th December 1822.

3. Copy of a letter from the Colonial Secretary to His Majesty's Fiscal, bearing date 10th March 1823.

4. Extract from the *Cape Gazette*, by which he is appointed Assistant Deputy Fiscal.

5. Extract from the *Cape Gazette*, by which he is appointed Deputy Superintendent of Police.

6. Copy of a Memorial addressed to General Bourke.

7. Copy of a Statement of Services submitted to His Majesty's Commissioners of Inquiry ; and humbly prays that it may graciously please your Lordship in consideration of Petitioner's long and faithful services to attach such salary to his present laborious situation of *Deputy Superintendent of Police at the Cape of Good Hope*, to be computed from the date of his appointment, as your Lordship may deem consistent with, and adequate to support the respectability of

his present situation, or that your Lordship may dispose in his case as to your Lordship shall seem meet.

And as in duty bound Petitioner will ever pray.

(Signed) P. AURET.

CAPE OF GOOD HOPE, 19th December 1826.

[Enclosure 1 in the above.]

COLONIAL OFFICE, 13th March 1818.

SIR,—In reply to your letter of the 11th instant, communicating that you have, conformably to His Excellency the Governor's direction, assigned to Mr. Lind, in addition to that proportion of the public duties of your department which you had before allotted to him, the management in the first instance of such proceedings as are carried on before the Sitting Commissioner, and suggesting, in order to obviate the inconvenience which may arise out of this arrangement, that whilst Mr. Lind will be engaged in the prosecution of one case all other cases must necessarily be postponed until he has leisure to attend to them, that the Head Clerk in your Department should be allowed to assist Mr. Lind in carrying on before the Sitting Commissioner such proceedings as appear to be of less import and in attending the examinations of evidences before one Commissioner, which are preparatory to the investigation of criminal affairs of higher importance and are taken with closed doors, at any times whenever the expedition of affairs does require and the nature of the cases does appear to you or to the Fiscal for the time being to allow the same, I am directed to signify to you His Excellency the Governor's approval thereof. I have &c.

(Signed) C. BIRD.

D. Denyssen, Esqre., His Majesty's Fiscal.

[Enclosure 2 in the above.]

To His Excellency the Right Honorable General Lord Charles:  
Henry Somerset, Governor and Commander in Chief,  
&c., &c.

The Memorial of Pieter Auret, Chief Clerk and Translator in the Fiscal's Office, Humbly Sheweth



That Memorialist has served the Colonial Government since the year 1803.

That on account of the multiplicity of business in the Fiscal's Office your Excellency was pleased by letter to His Majesty's Fiscal bearing date the 13th March 1818 to qualify Memorialist to assist Mr. Lind the 2nd Deputy Fiscal in the prosecution of cases before the Sitting Commissioner and the collecting of preparatory informations.

That Memorialist has now upwards of four years performed and still performs the aforesaid duties without any additional emolument from Government, his salary as Chief Clerk and Translator in the Fiscal's Office being rixdollars 1100 per annum.

That agreeable to the contents of said letter of the 13th March Memorialist was only to act for Mr. Lind when otherwise employed, but that Memorialist has found that gentleman is always otherwise employed, so that Memorialist has uninterruptedly been employed in the prosecution of cases before the Sitting Commissioner. Memorialist is aware that your Excellency entertains the idea that Memorialist is compensated for this extra duty by being allowed to charge fees from parties cast, but Memorialist assures your Excellency that in this year these did not exceed one hundred rixdollars, owing to the poverty of the greatest part of the persons fined.

That Memorialist has a wife and 9 children to support, and having spent the better part of his life in the public service is now necessitated to address your Excellency and most respectfully to request your Excellency may be pleased to augment Memorialist's salary, or deduct part of the fees taken in the Fiscal's Department to go to him by way of emolument.

Memorialist begs leave to name Sir John Truter and Mr. Denysen under whose patronage he has had the honor to serve, being assured that those gentlemen are convinced that he has done all in his power to perform his duty on all occasions.

And Memorialist as in duty bound will ever pray.

(Signed) P. AURET.

[Enclosure 3 in the above.]

COLONIAL OFFICE, 10th March 1823.

SIR,—I am directed by His Excellency the Governor to acquaint you, that in consequence of an application from Mr. W. van Ryneveld for leave to remain in the Swellendam District until such time as the accouchment of Mrs. Ryneveld shall have taken place, His Excellency has acceded thereto, but His Excellency knowing from your representation how much inconvenience your office is labouring under from the absence of Mr. Ryneveld, now that Mr. Borchers has left the Fiscal's Department, it is His Excellency's desire that you may be pleased to direct Mr. Auret to act as Deputy Fiscal until such time as Mr. W. Ryneveld can join. I have &c.

(Signed) C. BIRD.

D. Denyssen, Esqre.

[Enclosure 4 in the above.]

*Government Advertisement.*

His Excellency the Governor has been pleased to appoint P. Auret Esqre. to be Assistant Deputy Fiscal and to empower him to prosecute such Petty Police Cases as are cognizable by one Commissioner of the Court of Justice.

Cape of Good Hope, 8th April 1825.

By His Excellency's Command.

(Signed) R. PLASKET, Secretary to Government.

[Enclosure 5 in the above.]

*Government Advertisement.*

His Excellency the Governor has been pleased to appoint W. C. van Ryneveld Esqre. to act as Superintendant of Police, under the Provisions of the Ordinance of His Excellency in Council, under date the 10th instant, until His Majesty's pleasure shall be known.

His Excellency has further been pleased to appoint P. Auret Esqre. to be Deputy to the Superintendant of Police.

Cape of Good Hope, 20th October 1825.

By Command of His Excellency.

(Signed) R. PLASKET, Secretary to Government.

[Enclosure 6 in the above.]

To His Honor Major General Richard Bourke, C.B., Lieutenant Governor and Commander of the Forces, &c., &c., &c.

The Memorial of Pieter Auret Humbly Sheweth

That Memorialist was a Clerk in the Colonial Secretary's Office at the surrender of this Colony to His Majesty's Arms in the year 1806.

That Memorialist was appointed Clerk in the Fiscal's Office in the year 1812.

That in March 1818 Memorialist owing to the multiplicity of business in the Fiscal's Office was empowered by letter from the Colonial Secretary, addressed to His Majesty's Fiscal, to prosecute all cases belonging to the 3rd section of the Crown Trial, and the taking of preparatory informations in Criminal Cases, without any additional salary being allowed him for this extra duty, notwithstanding this duty had formerly always been performed by one of the Deputy Fiscals, Memorialist's salary as Chief Clerk in the Fiscal's Office being only £82 10s. per annum.

That again in March 1825 Memorialist was appointed Assistant Deputy Fiscal without any increase of salary.

That in October following when the administration of Police was separated from the Fiscal's Department, Memorialist was appointed Deputy Superintendant of Police without any Salary being fixed for this new situation.

That Memorialist has spent the better part of his life in the Public Service, and in his present situation is obliged to give up the whole of his time, whilst he has to provide for a numerous family, a wife and 11 children; under these circumstances Memorialist is necessitated to address your Honor, especially as by the appointment of a permanent sitting Commissioner

he has to expect an additional increase of duties, most humbly requesting that in consideration of Memorialist's length of service and his numerous family, your Honor may be graciously pleased to attach such Salary to his present laborious situation of Deputy Superintendant of Police as your Honor may deem adequate to the duties and respectability of that Situation.

Memorialist begs to refer your Honor to His Majesty's Fiscal and the several Members of the Worshipful the Court of Justice, with whom he has had the honor to act, and in particular to His Honor the Chief Justice, under whom he commenced his career in the Colonial Office, and who had many opportunities to witness Memorialist's conduct both in private and public life.

And as in duty bound your Memorialist will ever pray.

(Signed) P. AURET.

CAPE TOWN, 7th June 1826.

[Enclosure 7 in the above.]

Statement of Services submitted by the undersigned to His Majesty's Commissioners of Inquiry.

In the year 1806 at the surrender of this Colony to His Majesty's Arms I was a Clerk in the Colonial Secretary's Office.

In 1812 I was appointed Clerk in the Fiscal's Office.

In March 1818 though there were two Deputy Fiscals the business in the Office had so increased that it was considered necessary that Mr. Lind should be assisted in the prosecution of cases belonging to the 3rd Section of the Crown Trial and in taking preparatory informations in Criminal Cases, in consequence of which I was empowered by letter from the Colonial Secretary addressed to His Majesty's Fiscal to assist Mr. Lind in those prosecutions and in taking preparatory informations in Criminal cases; owing to Mr. Lind's other occupations I have been obliged to attend to the prosecution of all police cases, and often in taking preparatory informations in Criminal Cases, without any additional salary for this extra duty, which always had been performed by one of the Deputy Fiscals.

I readily complied with the directions of Government in



undertaking the performance of these duties in addition to my duties as Chief Clerk and Translator to the Fiscal's Office, conceiving that these extra duties would in time entitle me to promotion in the same Office or to some other situation.

Finding that there was no chance of promotion, and not being able to support my family any longer without spending the little property I possessed, I waited on Colonel Bird and stated to that gentleman the urgency of my case, who told me that my services were indispensable in the Fiscal's Office and there was no doubt of my being promoted in the Office should a vacancy occur.

In December 1822 induced by the calls of a numerous family I addressed His Excellency the Governor for an increase of salary.

In February 1823 Mr. Van Ryneveld was appointed Deputy Fiscal in lieu of Mr. Borchers; this appointment did not make any alterations in my various duties. Mr. Van Ryneveld then not being able to join the Office in consequence of Mrs. Van Ryneveld's indisposition in the Swellendam District, I was directed to act as Deputy Fiscal until Mr. Ryneveld could join the Office, *vide* letter from the Colonial Secretary of the 10th of March 1823 hereunto annexed.

In April 1825 I was appointed Assistant Deputy Fiscal without any increase of salary, my salary as Chief Clerk in the Fiscal's Office being only £82 10s. per annum.

In October last I was appointed Deputy Superintendant of Police without any salary being fixed for this new appointment.

Previous to the departure of Lord Charles Somerset from this Colony Mr. Van Ryneveld addressed His Excellency the Governor for an increase of salary for himself and me, to which the annexed reply was received from His Honor the Lieutenant Governor.

That in consequence of the Ordinance of the 10th October 1825, No. 12, I am obliged to devote the whole of my time to the public service, and am even obliged to attend at certain hours on Sundays and holidays.

I therefore humbly trust that in consideration of my long services, having done the duty of Deputy Fiscal since March 1818 till October 1825, and that of Deputy Superintendant of Police till this moment without any remuneration from Govern-

ment except the salary of Chief Clerk in the Fiscal's Office which I still continue to draw, being £82 10s. per annum, and having to support a wife and eleven children, such a salary may be attached to my present laborious situation as will be deemed consistent with and adequate to the duties and respectability of the same.

(Signed) P. AURET.

CAPE TOWN, 3rd July 1826.

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[Original.]

*Letter from MR. JOHN FOURNIER to R. W. HAY, ESQRE.*

*December 19th 1826.*

SIR,—I request you will be pleased to inform me of the terms under which your communication of the 15th Ultimo assures me that Earl Bathurst has expressed his willingness to give me a choice grant of land either at the Cape of Good Hope, New South Wales, or in Van Diemen's Land.

I am &c.

(Signed) JOHN FOURNIER.

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[Office Copy.]

*Letter from R. W. HAY, ESQRE., to MAJOR GENERAL BOURKE.*

*DOWNING STREET, LONDON, 20 December 1826.*

MY DEAR SIR,—I have taken an opportunity of mentioning to Lord Bathurst that you were under the expectation of receiving an Address for the purpose of moving you to consent that the Dutch language should be used in the Courts for some time longer ; and although you will have promulgated your determination upon this subject long before this letter can reach you, yet it may be satisfactory to you to know that his Lordship will not be disposed to object to the Dutch idiom being continued in use, until the installation of the English Judges who I am in hopes will be appointed at no distant period. I remain &c.

(Signed) R. W. HAY.

[Office Copy.]

*Letter from R. W. HAY, ESQRE., to LORD CHARLES SOMERSET.*

Mr. Hay presents his Compliments to Lord Charles Somerset, and has the honor to acknowledge the receipt of his Lordship's letter of the 18th instant, enclosing the affidavits of Mr. Klerck, Henry Crowcher and of Captain Hare relating to the Groote Post Farm.

DOWNING STREET, 21 December 1826.

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[Original.]*Letter from LORD CHARLES SOMERSET to R. W. HAY, ESQRE.*48 LOWER GROSVENOR STREET,  
LONDON, 21st December 1826.

SIR,—I trust Lord Bathurst will pardon the liberty I take in begging to submit to Him a private Letter I have received from Mr. Van der Riet, Landdrost of the District of George, (Cape of Good Hope) who has been visited with a most dreadful Calamity, by the total Destruction by fire of all his property. He has a family of 11 or 12 children, and is a most respectable man and able public Servant, but is possessed of very slender pecuniary Resources. I have &c.

(Signed) CHARLES HENRY SOMERSET.

[Enclosure in the above.]

GEORGE TOWN, 29th September 1826.

MY DEAR LORD,—I sincerely hope that this Letter may meet Your Lordship, Lady Charles and family in perfect health and happiness.

It has long ago been my intention of venturing to write to Your Lordship, as I feel so particularly anxious to be honored with a few lines from Your Excellency, but have put it off, thinking, and also fervently wishing, that Your Lordship would be already on Your return to the Cape.

Your Lordship will perhaps ere this have heard of the Misfortune I have recently suffered by the burning of the

Drostdy House here ; my loss is most severe, as all my private property to the amount of upwards of 16,000 Rds. (as far as I have as yet been able to ascertain) has been consumed on that calamitous occasion.

The Lieut. Governor has been kind enough to inform me of his intention to report the case to Earl Bathurst, and to recommend that some remuneration be made to me for a part of the loss of Private Property I sustained. From the many favors which Your Excellency has from time to time been pleased to confer on me, I feel confident that Your Lordship's powerful influence will also be used in this instance, to soothe my Misfortune. You are aware, My Dear Lord, that I have a very numerous family to provide for, that my salary is inadequate to support them, and that I have also lost the little fortune I had of my own.

Mrs. Van der Riet, who has ever since been very poorly, begs to unite in most respectful Compliments to Your Excellency, Lady Charles, Miss Somerset, and Mr. Brink, and

I have &c.

(Signed) J. VAN DER RIET.

Lord Charles Henry Somerset.

P.S. I beg your Lordship will not think me too intrusive, that I take the liberty to avail myself of this opportunity of again recommending my clerk Mr. Du Toit to Your Lordship's Notice, he is an old Government servant, has a large family, a miserable pay, and no prospect unless Your Lordship should condescend to become instrumental to his welfare, and of which he is in every respect most deserving.

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[Original.]

*Letter from MAJOR-GENERAL PIGOT to R. W. HAY, ESQRE.*

ADMIRALTY HOUSE, DEAL, December 21st 1826.

SIR,—I have the honor to annex a copy of a letter from Sir Richard Plasket, Colonial Secretary at the Cape of Good Hope, to George Pigot, Esqre., respecting the appointment of Vendue



Master at Albany, and beg you will be pleased to direct Mr. Maull the Government Solicitor to indite the necessary Instrument relative to the Sureties, for me to transmit to General Bourke the Lieutenant Governor to enable my Brother to hold that appointment. I have &c.

(Signed) RICHD. PIGOT, Major General.

[Enclosure in the above.]

COLONIAL OFFICE, CAPE OF GOOD HOPE, 31st August 1826.

SIR,—In reply to your letter of the 15th instant applying for the situation of Vendue Master of Albany, I am directed by His Honor the Lieutenant Governor to acquaint you that if you can give the required security to the amount of Twenty Thousand Rixdollars for the faithful discharge of the duties of that situation, His Honor will accede to your request.

I have &c.

(Signed) RICHD. PLASKET.

George Pigot, Esqre.

[Original.]

*Letter from MR. WILLIAM DUNN to EARL BATHURST.*

CUSTOM HOUSE, PORT ELIZABETH,  
ALGOA BAY, December 21st 1826.

May it please Your Lordship,—I would not presume to address your Lordship but that the forms of office will not permit me to write to an inferior in your Department.

The *Eliza* (Mahon) proceeds from this Port to England, and it has occurred to me that some gentleman in the Colonial Office may have a few moments' leisure and talent and sound *good will* towards the British Settlers in Africa, and that therefore they will not think this letter an intrusion.

I lay before your Lordship an Extract from a letter which I yesterday sent to Sir Richard Plasket with a similar sample of Lake Salt.

Without presuming to expect your Lordship will interfere, yet some "Royal Professor" may be so *kind* as to give us an assistance which the Colonial Government however willing may be unable to afford.

I shall only add that I am not in the most distant way connected with Trade, and that any information I obtain is communicated without the least partiality. I should think the price of fat oxen here (about three pounds sterling) should be publicly announced to the preserver of fresh beef for the sea service.

*Extracts of Letter to SIR RICHARD PLASKET.*

"I was much grieved the other day on attesting a declaration at this Port to the exportation of specie to the amount of twenty thousand rixdollars, this circumstance has added to my conviction of the necessity which exists of immediately taking some steps in order to furnish a staple article of export.

"I believe a fat ox may be slaughtered at Algoa Bay for *one halfpenny* (English) per lb., and during the winter months beef can be salted here as well as in Ireland. It is notorious that the using of the Lake Salt has entirely ruined the reputation of our salt beef.

"I should not have introduced these *commonly* known facts, except for the purpose of humbly representing to the Colonial Government that if they would order this salt to be analyzed and notify the result, so that the settlers might be taught how to neutralize the offending matter, a lasting advantage would be bestowed on the inhabitants of the Eastern District of the Cape of Good Hope."

I am &c.

(Signed) WILLIAM DUNN.

"A friend corrects me, and says the average price of oxen weighing from 7 to 800 lbs. (Dutch weight *i.e.* 18oz. to the pound) is only £2 15s."

[Office Copy.]

*Letter from R. W. HAY, ESQRE., to MR. J. FOURNIER.*

DOWNING STREET, 23 December 1826.

SIR,—Having laid before Earl Bathurst your letter of the 19th Instant, I am directed to acquaint you in reply that you cannot, as you term it, receive “a choice grant of land” in any of the Colonies of New South Wales, Van Diemen’s Land, or the Cape of Good Hope ; and that although no exception can be made in your favor with respect to the terms of quit rent on which the land would be granted to you, yet that as far as regards the situation and quality of the land, his Lordship would be prepared to direct that as much indulgence should be shewn to you as might be practicable. I am &c.

(Signed) R. W. HAY.

[Office Copy.]

*Letter from R. W. HAY, ESQRE., to MAJOR-GENERAL PIGOT.*

DOWNING STREET, 25 DECEMBER 1826.

SIR,—I have had the honor to receive and to lay before Earl Bathurst your letter of the 21st instant enclosing a copy of a communication which the Lieutenant Governor of the Cape had directed to be made to your brother George Pigot Esq. respecting the amount of the security which would be required from him for the due discharge of the office of Vendue Master in Albany to which the Lieutenant Governor proposed to appoint him, provided he would give the security required ; and you request that the Solicitor to the Treasury may be instructed to prepare the necessary Instrument relative to the Sureties.

His Lordship directs me to acquaint you in reply that not having received any communication from Major-General Bourke relating to the Office in question, his Lordship feels himself precluded from taking any steps respecting the appointment of a Vendue Master. I have &c.

(Signed) R. W. HAY.

[Office Copy.]

*Letter from R. W. HAY, ESQRE., to MR. BENJAMIN WILMOT.*

DOWNING STREET, 25 December 1826.

SIR,—Having laid before Earl Bathurst your letter of the 18th instant, I am directed by his Lordship to acquaint you in reply, that nothing can be more definitive than the statement which was made to you in my letter of the 18th instant, and I do not therefore feel myself at liberty to attempt to afford you any further explanation. I am &c.

(Signed) R. W. HAY.

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[Original.]

*Letter from LORD CHARLES SOMERSET to R. W. HAY, ESQRE.*

CHELLINGTON PARK, 27th December 1826.

SIR,—I have the honor to acknowledge the receipt of your letter of the 14th instant, with its Enclosures (which are herewith returned) being a letter addressed to you by the Under Secretary of State for the Home Department, covering a petition to His Majesty from Mr. Thomas Willson, late a Settler at the Cape of Good Hope, in which he prays for compensation for certain losses alleged to have been sustained by him ; and requesting that I will communicate to Earl Bathurst any observations which I may be desirous to offer on the subject matter of Mr. Willson's application.

Having in the Despatch which I had the honor to address to Earl Bathurst on the 11th November 1824 (No. 126) transmitted a report from Mr. Hayward (the Special Commissioner appointed to investigate minutely the differences and complaints of the British Settlers) on Mr. Willson's Case, and having at the same time forwarded a Memorial from the Settlers of Mr. Willson's party ; together with a letter from the Revd. Mr. Boardman, I beg permission to refer His Lordship to those Documents, from which I think His Lordship will perceive



1st, That Mr. Willson abandoned his party immediately on their Arrival at their location ;

2ndly, That the Revd. Mr. Boardman took charge of the party not (as is asserted by Mr. Willson) in the capacity of his Constituted Agent), but as being elected by the party as their Head ;

3rdly, That Mr. Willson did not contribute by personal exertion or otherwise to promote the establishment of his party or to assist in locating them on the land assigned to them ; and

4thly, That the party still make a claim of £5 each upon Mr. Willson.

Under these circumstances I have no other remark to make than that it does not appear to me that Mr. Willson can have any Claim to the Compensation he prays for. I have &c.

(Signed) CHARLES HENRY SOMERSET.

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[Original.]

*Note from LORD CHARLES SOMERSET to R. W. HAY, ESQRE.*

Lord Charles Somerset presents his compliments to Mr. Hay and will be much obliged to him if he would have the goodness to direct copies of Major General Bourke's despatch recommending the emancipation of the Government Slaves at the Cape of Good Hope and of Earl Bathurst's reply thereto to be furnished to him.

CHELLINGTON PARK, 27th December 1826.

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[Office Copy.]

*Letter from R. W. HAY, ESQRE., to W. HILL, ESQRE.*

DOWNING STREET, 27 December 1826.

SIR,—I am directed by Earl Bathurst to transmit to you enclosed a copy of a dispatch which has been received from the Lieutenant Governor of the Cape of Good Hope, explaining

the measures which he proposes to adopt for raising funds if it should be found necessary, to meet the current expenses of the Colonial Establishment, and I am to desire that you will lay this dispatch before the Lords Commissioners of His Majesty's Treasury. I am &c.

(Signed) R. W. HAY.

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[Office Copy.]

*Letter from R. W. HAY, ESQRE., to LORD CHARLES SOMERSET.*

DOWNING STREET, 29 December 1826.

MY LORD,—I have received Earl Bathurst's directions to transmit to your Excellency herewith enclosed a dispatch which has been received from Major General Bourke, reporting that a female Slave named Sila was condemned to death in the month of April 1823, and reprieved by your Excellency, since which time she is stated to have remained in prison and to have borne two illegitimate children.

I am likewise desired to transmit herewith to your Excellency a communication which has been received from Mr. Hobhouse, one of the Under Secretaries of State to the Home Department, conveying Mr. Secretary Peel's sentiments upon this case, and I have to request that your Excellency will transmit to me for Earl Bathurst's information such explanations as you may wish to offer of the delay which has occurred in reporting the case to His Majesty's Government, as well as of the circumstance of a female prisoner under sentence of death having during her imprisonment borne two illegitimate children.

I have &c.

(Signed) R. W. HAY.

P.S. The papers enclosed being in original, it is requested may be returned.

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[Original.]

*Letter from the* RIGHT REVEREND DR. WILLIAM POYNTER  
to R. W. HAY, ESQRE.

4 CASTLE STREET, HOLBORN, *December 29th 1826.*

SIR,—Apprehending that the Revd. Mr. Wagenaar, the Roman Catholic Priest at the Cape of Good Hope, who cannot speak English, may, before long, leave that Colony, unless an English Priest be sent thither to assist him, I have been anxious to find one, who will be able to give instruction and administer the comforts of Religion to the English and Irish Roman Catholics at the Cape. I beg to state to you that I have at length succeeded, and that the Revd. Mr. Rishton, a respectable English Roman Catholic Clergyman, well known to Dr. Slater, is willing to go out to the Cape of Good Hope by the earliest opportunity.

By your favor of 14th December 1825, you were so obliging as to acquaint me that Lord Bathurst would direct the Governor of the Cape of Good Hope to issue an allowance of one hundred Pounds per annum to each of two Roman Catholic Clergymen who, having been recommended by me, should receive his Lordship's sanction to proceed to that Colony, and also that a passage would be provided for them at the public expence.

May I request you to do me the favor to make this present proposal to Lord Bathurst, and to inform me whether the offer of Revd. Mr. Rishton's services has his Lordship's approbation.

The Revd. Mr. Rishton is at present in France, and intends returning to England in the first week after the new year. He will come by Brighton, and he has requested me, in case his offer is accepted, to ask whether, by an order from Lord Bathurst, he may be permitted to bring with him a box of books which he should take with him to the Cape, free of duty.

I have &c.

(Signed) WILLIAM POYNTER, V.A.L.

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[Copy.]

Local Ordinance No. 3. (Signed) RICHD. BOURKE.

Ordinance of His Honor the Lieutenant-Governor in Council,  
For the better Regulation of the Turnpikes, on the Road  
leading from Cape Town to Simon's Town, through the  
Upper and Lower Gates of the Military Lines, and for  
fixing the Tolls to be levied thereat.

(It cannot be necessary to give the text of this long ordinance  
here.—G. M. T.)

29th December 1826.

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[Original.]<sup>1</sup>

*Letter from* LORD CHARLES SOMERSET *to* R. W. HAY, ESQRE.

December 30th 1826.

SIR,—I have the honor to state to you that Mr. Lawrence Witham, a Notary Public in Cape Town, obtained permission (after a reference to the Court of Justice) for Mr. Barker to carry on his notarial business for the space of 18 months from the 20th November 1825, during the absence of Mr. Lawrence Witham on account of his health.

Mr. Witham having lately represented to me the great convenience that an extension of that permission for 6 months would afford him, I take the liberty of soliciting Earl Bathurst's sanction thereto, and that the same may be notified to the Lieutenant Governor. I have &c.

(Signed) CHARLES HENRY SOMERSET.

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[Office Copy.]

*Letter from* R. W. HAY, ESQRE., *to* J. SULIVAN, ESQRE.

DOWNING STREET, 30 December 1826.

SIR,—With reference to the letter which Earl Bathurst addressed to the Secretary at War on the 20th Instant, I am directed to acquaint you for Lord Palmerston's information



that upon further consideration Earl Bathurst is of opinion that it will not be necessary to provide any pay for a Commandant at Simon's Town. I am &c.

(Signed) R. W. HAY.

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[Copy.]

*List of Appointments at the Cape of Good Hope in the year 1826.*

By HIS EXCELLENCY LORD CHARLES HENRY SOMERSET.

12th January.

C. A. Wentworth to be Medical Attendant on His Excellency's Household, *vice* Dr. James Barry, resigned.

19th January.

James William Fairbridge, M.D., to be Physician to the Cape District.

25th January.

Jacobus Johannes Louw to be First Ordinary Clerk in the Vendue Department, *vice* R. S. Alleman.

Marthinus Maasdorp to be Second Ordinary Clerk in the Vendue Department, *vice* J. J. Louw, promoted.

26th January.

George Kekewich to be Assessor to His Excellency in the Court of Appeals for Civil Cases.

Lieutenant Pedder, R.N., to act as Deputy Port Captain of Table Bay.

A. T. Caldicott to be English Teacher at the Drostdy of Somerset.

16th February.

J. P. Serrurier to act as Secretary to the Court of Appeals.

By HIS HONOR MAJOR-GENERAL RICHARD BOURKE.

6th March.

J. G. Brink to act as Assistant Secretary to Government during the absence of P. G. Brink on duty.

Lieutenant Rundell, 49th Regiment, and Lieutenant C. C. Coote, Half Pay, to be His Honor's Colonial Aides-de-Camp.

12th April.

Charles de Lorentz to be Superintendent of Police.

15th April.

J. Honey to be District Surgeon of Caledon.

27th April.

W. Hayward to act as Auditor of Accounts during the absence on leave of W. Bentinck.

John Murray, M.D., to be Medical Attendant on His Honor's household, *vice* Mr. Wentworth, resigned.

11th May.

H. Hudson to be District Clerk and Functionary for the Slave Registry in the District of Uitenhage, *vice* J. H. Lange, retired.

1st June.

Lieutenant Bance, R.N., to be Port Captain of Table Bay, *vice* Charles Blair, retired.

6th June.

P. B. Borchers to be Permanent Sitting Commissioner of the Court of Justice.

21st June.

J. G. Aspeling to be Secretary to the District of Worcester, *vice* P. J. Poggenpoel, removed.

C. F. Scholtz to be District Clerk and Registrar of Slaves of the District of Worcester, *vice* J. G. Aspeling.

6th July.

G. J. Rogers to be Registrar and Guardian of Slaves.

1st August.

Francis Collison and Hendrik de Jongh, Senior, to be Members of the Burgher Senate.

15th August.

Marthinus Maasdorp to be Vendue Clerk at Simon's Town, *vice* P. Kirsten removed.

Jacobus Johannes Louw to be Teller of the Vendue Office.  
Joachim Johannes Scholtz to be First and Gysbert Henry  
Lehman to be Second Ordinary Clerk in the Vendue  
Office, *vice* Messrs. Louw and Maasdorp, promoted.

1st September.

W. C. van Ryneveld to be Private Secretary to the Lieutenant  
Governor.

6th September.

George Glaeser to be District Surgeon of Worcester, *vice* Gird,  
resigned.

His Honor Sir J. A. Truter, Knight, and R. J. van der Riet,  
Esqre., to be Political Commissioners to represent the  
Government in the Synod of the Reformed Church.

10th November.

J. G. G. Lindenberg to be Assistant Registrar and Guardian  
of Slaves for the District of Stellenbosch, *vice* P. C. van  
Blommestein.

15th November.

W. W. Harding to be Deputy Landdrost of Beaufort, *vice*  
J. Baird, removed.

R. C. Harker to be Resident at Plettenberg's Bay, *vice* W. W.  
Harding.

22nd November.

H. W. Reveley to be Civil Engineer and Superintendent of  
Government Works and Buildings in the Colony.

G. M. Pedder, R.N., to be Commandant of Robben Island,  
*vice* Lieutenant Humphreys, removed.

19th December.

G. H. Meyer to be President of the Burgher Senate, *vice* J.  
van der Poel, retired.

J. Nisbet to be Member of the Burgher Senate, *vice* G. H.  
Meyer, appointed President.

J. C. Chase to be Vendue Master for the District of Albany.

*Return of the total Estimated Value of Articles Imported into and Exported from the Cape of Good Hope, from 1807 to 1826.*

*Records of the Cape Colony.*

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Year.	IMPORTS.				EXPORTS.		
	British Goods in British Ships.	Foreign Goods in British Ships.	Foreign Goods in Foreign Ships.	Total Value of Imports.	Colonial Produce.	Goods, not the Produce of the Colony, Re-exported.	Total Value of Exports and Re-exports.
	<i>Rixdollars.</i>	<i>Rixdollars.</i>	<i>Rixdollars.</i>	<i>Rixdollars.</i>	<i>Rixdollars.</i>	<i>Rixdollars.</i>	<i>Rixdollars.</i>
1807	—	—	—	146,853	126,872	57,043	183,915
1808	—	—	—	476,863	316,857	112,223	429,080
1809	—	—	—	390,633	117,275	33,823	151,098
1810	—	—	—	659,315	316,900	327,419	644,319
1811	—	—	—	518,312	375,028	265,393	640,421
1812	—	—	—	650,308	650,308	150,712	801,020
1813	—	—	—	2,127,630	780,405	231,216	1,011,621
1814	—	—	—	2,633,462	900,620	161,161	1,061,781
1815	—	—	—	4,257,385	1,124,296	195,209	1,319,505
1816	1,883,673	1,627,171	38,110	3,548,954	1,265,629	334,260	1,509,889
1817	2,808,462	1,763,564	120,890	4,692,916	2,883,130	445,230	3,328,360
1818	2,906,137	1,647,738	187,568	4,741,443	2,906,090	224,480	3,130,570
1819	1,793,555	1,605,192	194,767	3,593,514	1,861,910	393,130	2,255,040
1820	1,690,585	1,476,765	246,986	3,414,336	1,792,785	349,968	2,142,753
1821	2,925,414	1,812,206	129,041	4,866,661	1,820,857	369,682	2,190,539
1822	2,324,266	2,307,272	451,290	5,082,828	2,396,324	725,649	3,121,973
1823	2,177,947	1,675,691	226,813	4,080,451	2,618,601	234,112	2,852,713
1824	3,012,225	1,543,512	119,380	4,675,117	2,790,380	231,055	3,021,435
1825	*2,472,067	1,213,120	258,706	3,943,893	*2,863,560	336,907	3,200,467
1826	*2,031,706	1,303,680	256,934	3,592,320	*2,111,227	195,746	2,306,973

\* The Imports and Exports from Simon's Town are not included for the years 1825 and 1826. For all the preceding years, the Imports and Exports, both from Table Bay and Simon's Bay, are included in the Return.

The above Returns of Imports and Exports have been compiled from those furnished to the Commissioners of Inquiry by the Collector and Comptroller of Customs at Cape Town, and by the Collector of Customs at Simon's Town.

(Signed) JOHN GREGORY, Sec.



*Return of the Estimated Value of Goods imported at the Cape of Good Hope in each year, from 1820 to 1826.*

## IMPORTS.

Year.	From Great Britain.			From Mauritius, India, and Eastward.		From South America and West Indies.	From the Netherlands.	
	British Goods in British Ships.	British Plantation Goods in British Ships.	Foreign and East India Goods in British Ships.	In British Ships.	In Foreign Ships.	In British Ships.	In British Ships.	In Dutch Ships.
	<i>Rds.</i>	<i>Rds.</i>	<i>Rds.</i>	<i>Rds.</i>	<i>Rds.</i>	<i>Rds.</i>	<i>Rds.</i>	<i>Rds.</i>
1820	1,667,809	22,776	307,363	1,094,728	40,044	51,664	544	156,933
1821	2,913,839	11,575	480,491	1,316,124	22,397	1,826	—	69,317
1822	2,289,151	35,115	729,637	1,478,096	89,613	92,755	117	166,126
1823	2,166,352	11,595	588,509	987,149	13,844	66,183	—	118,221
1824	2,979,105	33,120	411,676	1,040,168	—	89,297	—	46,367
*1825	2,439,586	32,480	362,187	732,267	—	58,173	—	144,706
*1826	2,025,200	6,507	324,907	824,387	12,106	151,040'	—	81,093

Year.	From France.		From Java.		From United States.	From Russia.	From Malta and Sweden.	From Denmark.
	In British Ships.	In French Ships.	In British Ships.	In Dutch Ships.	In American Ships.	In Russian Ships.	In British Ships.	In Danish Ships.
	<i>Rds.</i>	<i>Rds.</i>	<i>Rds.</i>	<i>Rds.</i>	<i>Rds.</i>	<i>Rds.</i>	<i>Rds.</i>	<i>Rds.</i>
1820	250	2,004	21,359	14,223	—	—	102	33,622
1821	1,226	36,551	3,288	776	—	—	from Malta 17	—
1822	2,052	54,241	1,230	36,106	47,030	49,462	from Sweden —	8,632
1823	5,293	59,852	610	17,890	13,906	—	—	—
1824	60	49,843	1,806	770	—	—	—	22,400
1825	60,493	66,374	—	27,147	20,480	—	—	—
1826	3,347	38,733	—	43,507	70,626	—	—	10,867

\* The Imports of Simon's Town are *not* included in this Return for the two last years, viz. 1825 and 1826.

IMPORTS—*continued.*

Year.	From Portugal.	From Madeira.		From Spain.		From New South Wales.		Total Value of Imports.
	In British Ships.	In British Ships.	In Foreign Ships.	In British Ships.	In Foreign Ships.	In British Ships.	In Foreign Ships.	
	<i>Rds.</i>	<i>Rds.</i>	<i>Rds.</i>	<i>Rds.</i>	<i>Rds.</i>	<i>Rds.</i>	<i>Rds.</i>	<i>Rds.</i>
1820	630	75	90	50	70	—	—	3,414,336
1821	410	8,667	—	—	—	157	—	4,866,661
1822	1,595	1,790	80	—	—	—	—	5,082,828
1823	1,275	360	1,470	.	—	26,312	1,630	4,080,451
1824	75	430	—	—	—	—	—	4,675,117
1825	—	—	—	—	—	—	—	3,943,893
1826	—	—	—	—	—	—	—	3,592,320

## RECAPITULATION.

Year.	British Goods in British Ships.	Foreign Goods in British Ships.	Foreign Goods in Foreign Ships.	Total Imports.
	<i>Rds.</i>	<i>Rds.</i>	<i>Rds.</i>	<i>Rds.</i>
1820 . .	1,690,585	1,476,765	246,986	3,414,336
1821 . .	2,925,414	1,812,206	129,041	4,866,661
1822 . .	2,324,266	2,307,272	451,290	5,082,828
1823 . .	2,177,947	1,675,691	226,813	4,080,451
1824 . .	3,012,225	1,543,512	119,380	4,675,117
1825 . .	2,472,067	1,213,120	258,706	3,943,893
1826 . .	2,031,706	1,303,680	256,934	3,592,320

The above Return has been made from those furnished by the Collectors of Customs at Cape Town and Simon's Town respectively.

(Signed) JOHN GREGORY, Sec.



*Return of the Value of Wheat, Flour, Biscuit, Rice, Barley, Oats, Rye, Beans, Peas and Grain,  
Imported and Exported at Cape Town and Simon's Town, from the 1st January 1820 to the  
31st December 1826.*

## IMPORTED.

Year.	Wheat.	Flour.	Biscuit.	Rice.	Barley.	Rye.	Beans and Peas.	Grain.	Pearl Barley.	Oats or oatmeal.
	<i>Rds.</i>	<i>Rds.</i>	<i>Rds.</i>	<i>Rds.</i>	<i>Rds.</i>	<i>Rds.</i>	<i>Rds.</i>	<i>Rds.</i>	<i>Rds.</i>	<i>Rds.</i>
1820 .	6,660	8,187	962	63,351	800	-	1,105	453	9,072	378
1821 .	187,096	32,075	838	190,566	-	-	484	1,454	5,380	238
1822 .	579,812	69,007	6,864	220,321	-	19,134	655	1,640	7,384	10,150
1823 .	29,328	916	2,463	122,892	95	-	495	280	4,633	190
1824 .	75	5	-	97,085	-	-	1,300	-	5,777	-
1825 .	-	-	-	69,480	-	-	2,493	-	5,826	-
1826 .	99,800	124,613	3,666	151,746	-	-	133	-	6,493	-

## EXPORTED.

Year.	Wheat.	Flour.	Biscuit.	Rice.	Barley.	Beans and Peas.	Grain.	Oats.	Pearl Barley.	Barley, Oats, Bran, &c.
	<i>Rds.</i>	<i>Rds.</i>	<i>Rds.</i>	<i>Rds.</i>	<i>Rds.</i>	<i>Rds.</i>	<i>Rds.</i>	<i>Rds.</i>	<i>Rds.</i>	<i>Rds.</i>
1820 .	149,340	31,500	-	12,287	44,120	-	800	5,780	-	1,305
1821 .	-	2,140	-	680	42,010	160	-	10,010	-	6,330
1822 .	-	46,958	-	1,760	19,691	1,732	1,200	5,011	-	3,809
1823 .	54,676	22,860	-	6,395	16,310	-	550	7,539	-	5,026
1824 .	19,487	10,380	-	310	15,183	520	-	2,571	3,800	2,553
1825 .	130,640	1,933	-	10,826	14,466	706	-	9,546	-	-
1826 .	6,266	-	-	-	8,906	-	-	20,053	-	-



## RECAPITULATION.

	Imported	Exported.	Excess of Imports.	Excess of Exports.
	<i>Rds.</i>	<i>Rds.</i>	<i>Rds.</i>	<i>Rds.</i>
Value of Wheat Imported or Ex- ported in 7 years }	902,771	360,409	542,362	—
Flour . . . . .	234 803	115,771	119,032	—
Biscuit . . . . .	14,793	—	14,793	—
Rice . . . . .	915,441	32,258	883,183	—
Barley . . . . .	895	160,686	—	159,791
Rye . . . . .	19,134	—	19,134	—
Beans and Peas . . . . .	6,665	3,118	3,547	—
Grain . . . . .	3,827	2,550	1,277	—
Pearl Barley . . . . .	44,565	3,800	40,765	—
Oats and Oatmeal . . . . .	10,956	60,510	—	49,554
Barley, Oats, Bran, &c. . . . .	—	19,023	—	19,023
<i>Rds.</i>	2,153,850	758,125		
			1,624,093	228,368
			228,368	
Excess in the Importation above the Exportation of Corn, &c. during seven Years . . . . .		<i>Rds.</i>	1,395,725	

The above Return has been compiled from those furnished to the Commissioners of Inquiry by the Collectors of Customs at Cape Town and Simon's Town.

(Signed) JOHN GREGORY, Sec.

## CAPE WINE.

*Return of the Quantity of Cape Wine declared at the Annual Opgaaf to have been produced in all parts of the Colony, the Quantity registered for Exportation at the Wine Taster's Office, and the Quantity actually Exported, according to the Books of the Custom House.*

Year.	Leggers returned at the Opgaaf.	Leggers Registered for Exportation at Wine Taster's Office.	Leggers Exported according to the Books of the Custom House.
1812 .	11,979	2,152	no return furnished
1813 .	6,724	2,824	- ditto -
1814 .	8,697	2,341	- ditto -
1815 .	14,365	3,647	- ditto -
1816 .	15,398	4,111	4,418
1817 .	10,713	9,076	9,105
1818 .	12,382	5,580	6,399
1819 .	13,543	4,621	4,805
1820 .	15,210	4,712	4,338
1821 .	16,254	4,221	5,005
1822 .	15,348	7,600	7,257
1823 .	21,147	7,939	7,013
1824 .	16,183	7,966	8,013
1825 .	no return furnished	no return furnished	6,814
1826 .	- ditto -	- ditto -	6,026

The above Return has been compiled from the Opgaaf Rolls, and the Returns furnished to the Commissioners of Inquiry by the Wine Taster and Collector of Customs.

(Signed) JOHN GREGORY, Sec.

Legger, 152 gallons.

Pipe, 110 gallons.

*Return of the estimated Value of French Wines imported into the Colony of the Cape of Good Hope in each Year from 1820 to 1826.*

							<i>Rds.</i>
In the year 1820	.	.	.	.	.	.	42,055
1821	.	.	.	.	.	.	46,131
1822	.	.	.	.	.	.	47,404
1823	.	.	.	.	.	.	20,117
1824	.	.	.	.	.	.	28,787
1825	.	.	.	.	.	.	45,560
1826	.	.	.	.	.	.	23,240

Extracted from the Returns of the Collectors of Customs of Cape Town and Simon's Town.

(Signed) JOHN GREGORY, Sec.

*Quantity of Cape Wine exported to Rio de Janeiro in 1826.*

Names of the Shippers.	Description of Cask.			Ships Names.
	Pipes.	Half Pipes.	Quarter Pipes.	
Sheppard . . .	232	15	—	City of Bordeaux. Hope.
Venning . . .	48	1	—	
Hertzog . . .	74	52	4	} Barbara.
Couvin . . .	40	—	—	
Sandenberg . . .	6	—	—	
Herman . . .	40	10	—	} Barbara and Rival.
Watson and Thomson	376	89	—	

(Signed) W. WILBERFORCE BIRD,  
Comptroller of Customs.

*Return of the Quantity of Foreign Brandy Imported and Exported  
at the Cape of Good Hope from 1820 to 1826.*

		Imported.		Exported.	
		Quantity.	Value.	Quantity.	Value.
			<i>Rds.</i>		<i>Rds.</i>
1820	{ Table Bay . .	Not stated.	127,905	3,120	10,580
	{ Simon's Bay . .	—	—	—	—
1821	{ Table Bay . .	Not stated	159,856	4,421	15,425
	{ Simon's Bay . .	Not stated	39	Not stated	1,149
		<i>Gallons.</i>			
1822	{ Table Bay . .	82,642	219,056	728	2,690
	{ Simon's Bay . .	Not stated.	3,353	Not stated.	6,632
		<i>Gallons.</i>			
1823	{ Table Bay . .	198,529	407,166	780	3,032
	{ Simon's Bay . .	Not stated.	3,843	346	1,384
		<i>Gallons</i>			
1824	{ Table Bay . .	105,643	222,936	7½	38
	{ Simon's Bay . .	Not stated.	5,956	Not stated.	296
		<i>Gallons.</i>			
1825	Table Bay . .	80,654	167,933	2,523	10,880
		<i>Gallons.</i>			
1826.	Table Bay . .	49,530	96,706	3,294	10,000
		<i>Rds.</i>	1,414,749	<i>Rds.</i>	62,106

RECAPITULATION.

FOREIGN BRANDY.		<i>Rds.</i>	FOREIGN BRANDY.		<i>Rds.</i>
Imported in 1820 . .		127,905	Exported in 1820 . .		10,580
„ 1821 . .		159,895	„ 1821 . .		16,574
„ 1822 . .		222,409	„ 1822 . .		9,322
„ 1823 . .		411,009	„ 1823 . .		4,416
„ 1824 . .		228,892	„ 1824 . .		334
„ 1825 . .		167,933	„ 1825 . .		10,880
„ 1826 . .		96,706	„ 1826 . .		10,000
Total Value of French Brandy			Total . .		<i>Rds.</i> 62,106
Imported		1,414,749	Value of Brandy imported for consumption in the colony in seven years, from 1820 to 1826.		
Ditto . . Exported		62,106			
<i>Rds.</i>		1,352,643			

The above Return has been compiled from those furnished to the Commissioners of Inquiry by the Collectors of Customs at Cape Town and Simon's Town.

(Signed) JOHN GREGORY, Sec.



*Return of the Quantity and Declared Value of Aloes, Hides, Ivory and Gum, the produce of the Colony, exported from the Cape of Good Hope in each Year from 1820 to 1826.*

Year.	Aloes.		Hides (Ox and Horse).		Ivory (Elephants and Sea-Cow Teeth).		Gum.	
	Quantity.	Value.	Quantity.	Value.	Quantity.	Value.	Quantity.	Value.
	<i>Lbs.</i>	<i>Rds.</i>	<i>Pieces.</i>	<i>Rds.</i>	<i>Lbs.</i>	<i>Rds.</i>	<i>Lbs.</i>	<i>Rds.</i>
1820	248,000	58,780	3,819	20,990	9,510	17,560	600	170
1821	355,800	174,000	2,732	15,880	4,538	8,350	1,690	580
1822	344,861	59,182	16,391	127,304	24,420	46,750	3,576	1,322
1823	270,126	76,644	15,017	110,311	19,855	42,576	2,933	1,116
1824	355,241	62,102	12,126	104,829	20,661	44,587	25,435	10,397
1825	529,037	92,346	29,722	313,920	106,778	221,146	111,853	29,120
1826	189,560	27,293	40,047	280,413	48,258	103,946	25,124	7,426

The above Return has been compiled from the several Returns furnished to the Commissioners of Inquiry by the Collectors of Customs at Cape Town and Simon's Town.

(Signed) JOHN GREGORY, Sec.

*Return of the Quantity of Wheat Sown, the quantity Reaped, and its Average Price in the Cape Market.*

Year.	Muids of Wheat Sown.	Muids of Wheat Reaped.	Average Price in the Cape Market.	Muids of Wheat passed the Cape Market.
			<i>Rds. st.</i>	
1806 . . .	14,106	187,993	—	—
1807 . . .	13,378	118,522	—	—
1808 . . .	10,708	128,435	—	—
1809 . . .	10,989	200,247	—	—
1810 . . .	11,199	124,343	—	—
1811 . . .	12,419	131,419	—	—
1812 . . .	15,343	173,003	—	—
1813 . . .	15,115	135,689	104 1	—
1814 . . .	12,918	119,882	132 —	—
1815 . . .	16,599	186,365	93 3	—
1816 . . .	16,138	187,981	68 —	—
1817 . . .	15,572	149,206	93 —	—
1818 . . .	16,270	163,447	174 —	—
1819 . . .	17,572	178,099	171 —	—
1820 . . .	18,261	193,435	93 —	54,124
1821 . . .	18,792	99,275	213 —	18,322
1822 . . .	16,732	84,108	264 —	10,268
1823 . . .	14,197	139,926	104 —	31,403
1824 . . .	15,849	163,027	133 —	32,744
1825 . . .	—	—	111 —	53,002
1826 . . .	—	—	224 —	14,532

The above Return has been compiled from the General Opgaaf Returns, and from the Returns of the Burgher Senate.

(Signed) JOHN GREGORY, Sec.

*Return of Oil and Seal Skins exported from the Cape of Good Hope between the Years 1816 and 1826.*

Year.	Value of Oil Exported.	Value of Seal Skins Exported.
	<i>Rds.</i>	<i>Rds.</i>
1816 . . . . .	24,400	—
1817 . . . . .	16,900	1,900
1818 . . . . .	22,180	12,250
1819 . . . . .	24,690	3,450
1820 . . . . .	143,376	14,490
1821 . . . . .	24,287	15,920
1822 . . . . .	92,901	37,700
1823 . . . . .	107,735	21,274
1824 . . . . .	18,247	14,920
1825 . . . . .	35,946	55,440
1826 . . . . .	13,386	13,146

The above Return has been compiled from those of the Collectors of Customs.

(Signed) JOHN GREGORY, Sec.

*Return of the Quantity and Value of Tea imported at the Cape of Good Hope in each Year, from 1816 to 1826.*

Year.	Quantity.	Declared Value.
		<i>Rds.</i>
1816 . . . . .	Not stated in the Custom-house returns.	247,171
1817 . . . . .	ditto	232,445
1818 . . . . .	ditto	237,013
1819 . . . . .	ditto	212,316
1820 . . . . .	ditto	307,577
1821 . . . . .	93,795 pounds	187,667
1822 . . . . .	Not stated.	147,930
1823 . . . . .	ditto	154,301
1824 . . . . .	ditto	225,500
1825 . . . . .	113,215 pounds.	223,360
1826 . . . . .	106,512 pounds.	213,066

A true extract from the returns furnished by the Collectors of Customs at Cape Town and Simon's Town.

(Signed) JOHN GREGORY, Sec.









